

## **ADMINISTRATIVE PANEL DECISION**

Merz Pharma GmbH & Co. KGaA v. Mihaela-Maria Trif-Iancu, My Store  
Case No. D2025-0922

### **1. The Parties**

The Complainant is Merz Pharma GmbH & Co. KGaA, Germany, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Mihaela-Maria Trif-Iancu, My Store, Italy.

### **2. The Domain Name and Registrar**

The disputed domain name <pantogar-italia.com> is registered with Tucows Domains Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2025. On March 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 0170391041, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 12, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2025.

The Center appointed Alfred Meijboom as the sole panelist in this matter on April 9, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is part of the Merz Group, which was founded in 1908 in Germany as a family business. The Merz Group is a global leader in, inter alia, the fields of medical aesthetics and neurotoxin therapy and operates throughout Europe and Asia Pacific, with over 7,000 employees worldwide. In 1978, the Complainant launched its PANTOGAR product range, with products intended for the treatment of various forms of hair loss and nail growth disorders.

The Complainant is owner of several trademark registrations for PANTOGAR in different jurisdictions, including European Union trademark with registration number 018154568, which was registered on March 3, 2020, for goods in classes 3 and 5. The Complainant's main website for its PANTOGAR products is "www.pantogar.com".

The disputed domain name was registered on February 29, 2024, and resolves to a website which is purportedly from "Pantogar Italia" and operates an online shop in Italian which features images which are identical to those on the Complainant's website, and offering the Complainant's PANTOGAR products for sale (the "Respondent's Website").

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its PANTOGAR trademark. According to the Complainant, the addition of "-italia" after its PANTOGAR trademark does not prevent a finding of confusing similarity with its trademark.

Further, the Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not a licensee or distributor of the Complainant, is not affiliated with the Complainant in any way, and is not commonly known by the disputed domain name. The Complainant also alleges that it has not granted any authorization for the Respondent to make use of its PANTOGAR trademark, in a domain name or otherwise. According to the Complainant, the products offered for sale on the Respondent's Website are counterfeit, or the Respondent is holding itself out as the Complainant in a manner that seeks to mislead consumers. Even assuming that the goods offered for sale via the Respondent's Website are genuine PANTOGAR products, the Complainant submits that the Respondent fails to fulfil the criteria from *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("Ok! Data") because the Respondent's Website also offers third party products and does not disclose its relationship with the Complainant.

The Complainant infers from the Respondent's use of the disputed domain name which resolve to a website that impersonates the Complainant that the Respondent was well aware of the Complainant and its PANTOGAR trademark at the time of registration of the disputed domain name. The Complainant also contends that the Respondent's registration of the disputed domain name using a proxy service to mask its identity constitutes further evidence of bad faith, just as the Respondent's use of the disputed domain name to hold itself out as the Complainant or the Italian branch of the Complainant, from which the Complainant infers that the disputed domain name has been registered using false or incomplete registrant information. Further, according to the Complainant, the products offered for sale on the Respondent's Website are

possibly counterfeit and even if they are genuine, the disputed domain name is being used in bad faith in an attempt to mislead Internet users and PANTOGAR customers into thinking that the Respondent and the Respondent's Website are associated with the Complainant and the Complainant's official website, which they are not.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view of UDRP panels is that the respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's PANTOGAR trademark. The disputed domain name incorporates the Complainant's PANTOGAR trademark in its entirety, and merely adds the term "-italia", which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's PANTOGAR trademark (see section 1.7 of the [WIPO Overview 3.0](#): "While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing").

Consequently, the first element of paragraph 4(a) of the Policy is met.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the

respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel takes note of the Complainant's various allegations and more specifically that no authorization has been given by the Complainant to the Respondent to use the Complainant's PANTOGAR trademark or to register the disputed domain name, and the disputed domain name resolves to the Respondent's Website which intentionally creates confusion with the Complainant's PANTOGAR trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. The Panel finds that the Complainant has sufficiently demonstrated that the Respondent's Website is probably intended to deceive Internet users into believing that the Respondent's Website is from or associated with the Complainant, and may be offering counterfeit PANTOGAR products or, if such products are genuine, do not meet the criteria as set forth in Oki Data so that the Respondent lacks rights or legitimate interests in a disputed domain name.

The allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panelist is satisfied that the Respondent must have had PANTOGAR trademark in mind when it registered the disputed domain name, as the Complainant secured registration for the PANTOGAR trademark well before the registration of the disputed domain name, and the disputed domain name has been resolving to the Respondent's Website, which prominently displays the Complainant's PANTOGAR trademark and copies the Complainant's website, immediately upon registration of the disputed domain name.

Panels have held that the use of a domain name for illegitimate activities, in this case offering for sale of counterfeit products and/or the impersonation of the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds the third element of the Policy has been established.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <pantogar-italia.com> be transferred to the Complainant.

*/Alfred Meijboom/*

**Alfred Meijboom**

Sole Panelist

Date: April 23, 2025