

ADMINISTRATIVE PANEL DECISION

Bayer Consumer Care AG v. JIANGCHUAN LUO
Case No. D2025-1193

1. The Parties

Complainant is Bayer Consumer Care AG, Switzerland, represented by pm.legal, Germany.

Respondent is JIANGCHUAN LUO, China, self-represented.

2. The Domain Name and Registrar

The disputed domain name <bepanthencream.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 23, 2025. On March 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 25, 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 (Domain Admin, Privacy Protect LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on March 26, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same date.

Respondent, in an email communication dated March 26, 2025, requested the termination of the proceeding as the disputed domain name had been canceled and was in a redemption period.

On March 31, 2025, Respondent, in response to the Center's email inviting the Parties to negotiate, requested the immediate termination of the proceeding as the disputed domain name was in the redemption period. On the same date, Complainant sent an email communication to the Center requesting the suspension of the proceeding and also commenting on the redemption period. In response to Complainant's communication, Respondent objected to the suspension request and urged the termination of the proceeding without any delay.

The Center acknowledged these communications on April 2, 2024, and invited Complainant to comment on the request for termination.

The Center received an email communication from the Registrar dated April 2, 2024, confirming that the disputed domain name will remain locked until the end of the proceeding. It affirmed that the placement on the redemption period was due to an internal error that was successfully reversed. Upon this confirmation from the Registrar, the Center communicated to the Parties the status of the disputed domain name, which is locked, and that the proceeding will continue as there has been no agreement between the Parties regarding the suspension of the dispute. The Parties replied to the Center's email on the same date.

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 Respondent of the Complaint, and the proceedings commenced on April 3, 2025. In accordance with the Rules, paragraph 5, the due date for the Response was April 23, 2025. The Center also acknowledged receipt of the Parties' communications and, in particular, requested confirmation by Respondent if its communication dated April 2, 2025, should be considered its final submission.

Respondent, on April 3, 2024, after the notification of the Complaint, sent two email communications and one communication through the WIPO's submission system. In these communications, the Respondent requested the termination of the proceeding as no remedy could be granted as the disputed domain name was cancelled. Respondent also requested that the Panel dismiss the Complaint as moot. On the same date, Respondent requested information from the Center regarding the delivery of the Written Notice via post mail.

On April 4, 2024, Complainant submitted a supplemental filing regarding Respondent's argument on the redemption period and requested that the proceeding continue. The Center acknowledged receipt of Respondent's communications on April 3, 2025, and the Supplemental filing on the same date, and notified the Parties with the commencement of the panel appointment process.

Subsequently, Respondent sent an email communication and a communication through the WIPO's submission system, submitting a final response on the dispute after the aforementioned acknowledgement of receipts. The Center acknowledged receipt of these two new communications and explained that it will proceed with the Panel appointment as mentioned in our previous communication.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on April 10, 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

Complainant, Bayer Consumer Care AG, is a company within the Bayer group of companies. Complainant specializes in various consumer health care products with a portfolio of several over the counter brands, including of relevance to this proceeding, BEPANTHEN, a product that supports the regeneration of the skin or mucous membrane and wound healing. Complainant owns a sizeable portfolio of trademark registrations for its BEPANTHEN mark including by way of example, (i) a European Union registration (No. 000328443) that issued to registration on January 27, 1999, (ii) a United Kingdom registration (No. UK00000630640) that issued to registration on July 24, 1944, and (iii) an International Registration (No. 249219) that issued to registration on November 6, 1981 and was extended to a number of jurisdictions including China.

Respondent who appears to be based in China registered the disputed domain name on February 10, 2025. At some point thereafter, Respondent posted a website at the disputed domain name purporting to offer Complainant's BEPANTHEN cream products at steeply discounted prices.

Following the initiation of this proceeding by Complainant, Respondent sought to delete the disputed domain name. Ultimately, the registrar maintained the lock on the disputed domain name and the disputed domain name was not deleted. The disputed domain name thus remains active with a current expiration date of February 10, 2026. The disputed domain name currently does not resolve to an active website or page.

5. Parties' Contentions

A. Complainant

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

Complainant asserts that it has strong rights in its BEPANTHEN mark which has been in use since 1944 and is "among the best known dermatological products". Complainant notes that it "owns more than 100 trademarks for BEPANTHEN" throughout the world, some of which date back to 1944.

Complainant argues that the disputed domain name is identical or confusingly similar to the disputed domain name as it contains the BEPANTHEN mark in its entirety with the non-distinguishing term "cream, which relates directly to "the name of Complainant's well-known product".

Complainant maintains that Respondent does not have rights or a legitimate interest in the disputed domain name as Respondent (i) is not affiliated with or licensed by Complainant, (ii) has not used the disputed domain name for a bona fide offering of goods or services or for a legitimate interest. In that regard, Complainant notes that the website at the disputed domain name refers to products that compete with those of Complainant, does not disclose its lack of a relationship to Complainant, and may not, in fact, be offering the BEPANTHEN products or other goods and services promoted on the website.

Lastly, Complainant contends that the disputed domain name has been registered and used in bad faith as the disputed domain name fully incorporates Complainant's well-known BEPANTHEN mark and has been done opportunistically as a means of attracting customers to Respondent's website which purports to offer "Complainant's products without accurately or prominently disclosing its relationship with the Complainant", and which refers to competing products of third parties.

B. Respondent

Respondent's response does not substantively respond to Complainant's contentions. Instead, Respondent requests that the proceeding be terminated in light of Respondent's notice to the registrar to delete the disputed domain name. Respondent argues that because the disputed domain name is in "an irreversible deletion process", no remedy, such as a cancellation or transfer of the disputed domain name, can be granted. Respondent further argues that in view of the deletion of the disputed domain name, and the impossibility of a remedy, continuing this proceeding is pointless. Lastly, Respondent urges that in light of the foregoing Complainant is acting in bad faith by "prolonging this proceeding despite full knowledge of the domain's irreversible status.

C. Complainant's Supplemental Filing

Complainant submitted a supplemental filing on April 4, 2025, arguing that the disputed domain remains active and is not deleted or in a redemption period. Complainant bases its arguments on communications from the Registrar advising that disputed domain name remains locked and active. Complainant requests

that the proceeding be continued and not terminated and contends that Respondent's removal of "infringing content does not preclude a finding in favor of the Complainant under the UDRP".

6. Preliminary Issue: Respondent's Request for Termination

In this proceeding, Respondent has sought to delete the disputed domain name in response to the Complaint filed by Complainant. Apparently, the registrar initially and mistakenly took steps to delete the disputed domain name, but ultimately did not delete the disputed domain name and maintained the lock on the disputed domain name. Given that the disputed domain name remains locked and active, there is no basis for Respondent's request to terminate the proceeding.

As an aside, the Panel notes that Respondent's attempt to delete the disputed domain name following the filing of the Complainant in furtherance of an attempt to terminate this proceeding is misplaced. The ICANN Registrar Accreditation Agreement ("RAA") provides under Section 3.7.5.7 as follows:

3.7.5.7 In the event that a domain which is the subject of a UDRP dispute is deleted or expires during the course of the dispute, the complainant in the UDRP dispute will have the option to renew or restore the name under the same commercial terms as the registrant. If the complainant renews or restores the name, the name will be placed in Registrar HOLD and Registrar LOCK status, the WHOIS contact information for the registrant will be removed, and the WHOIS entry will indicate that the name is subject to dispute. If the complaint is terminated, or the UDRP dispute finds against the complainant, the name will be deleted within 45 days. The registrant retains the right under the existing redemption grace period provisions to recover the name at any time during the Redemption Grace Period and retains the right to renew the name before it is deleted.

Given the clear language of Section 3.7.5.7 of the RAA, the registrar properly acted in preventing the deletion of the disputed domain name in this proceeding. Allowing a respondent to merely delete a domain name in response to a UDRP would defeat the purpose of the UDRP and create an easy way for a party to avoid a ruling in a proceeding and to further complicate matters for a complaining party by returning a disputed domain name to the pool of available domain names for anyone to register. Not only would complainants need to potentially seek to again enforce their rights if they failed to obtain the disputed domain name once it became available, but conceivably an innocent third party could register the disputed domain name thinking it was available in ignorance that a pending UDRP had been in process. Section 3.7.5.7 of the RAA is meant to address these possibilities and, here, the Registrar properly continued the lock of the disputed domain name so that this proceeding can continue.

7. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)) at section 1.7.

Here, Complainant has shown rights in its BEPANTHEN mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds that the disputed domain name is confusingly similar to Complainant's BEPANTHEN mark as the disputed domain name fully incorporates the BEPANTHEN mark. Although the addition of other terms, here the common word "cream," may bear on the assessment of the second and third elements, the Panel finds the addition of such word does not prevent a finding of confusing similarity between the disputed domain name and the mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The first element of the Policy has thus been established by Complainant.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In fact, Respondent has essentially admitted that he has no legitimate interests in the disputed domain name by seeking to delete it shortly after the Complaint was filed. But beyond this fact, Respondent's use of the disputed domain name belies any claim that Respondent has a legitimate interest in the disputed domain name. Respondent not only registered the disputed domain name that on its face carries a high risk of implied affiliation with Complainant and its BEPANTHEN products, but the website that was posted at the disputed domain name could be seen as affiliated or authorized by Complainant particularly given its prominent use of the BAPANTHEN mark and absence of any disclosure regarding Respondent's lack of affiliation or authorization from Complainant. Moreover, the website not only purported to offer Complainant's BEPANTHEN products at steeply discounted prices, suggesting that they might be counterfeits, but made reference to and essentially promoted products of third parties unrelated to Complainant. In all, the disputed domain name and its associated website (when it was available) were likely to be mistakenly seen by consumers as related to Complainant and its well-known BEPANTHEN mark and were not on the level of a legitimate reseller. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#) at section 2.5 and 2.8.

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

C. Registered and Used in Bad Faith

The Panel notes that, for 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 view of Respondent's actions, and attempt to delete the disputed domain name, it is easy to infer that Respondent's registration and use of the disputed domain name, which is clearly based on Complainant's BEPANTHEN mark, has been done opportunistically and in bad faith for the benefit or profit of Respondent. The disputed domain name on its face suggests a connection to Complainant and its BEPANTHEN products and was registered well after Complainant had established rights in its well-known BEPANTHEN mark. Respondent's use of the disputed domain name to attract and redirect web users to a website, as already noted, that could be seen as authorized by Complainant, and which purported to sell Complainant's BEPANTHEN products at steeply discounted prices, and also referenced the competing products of others, further highlights Respondent's bad faith registration and use. In all, Respondent's actions make it quite evident that Respondent was fully aware of Complainant and its BEPANTHEN name when it opportunistically registered the disputed domain name for the benefit of Respondent.

The Panel thus finds that Complainant has established the third element of the Policy.

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 <bepanthencream.com> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: April 21, 2025