

## **ADMINISTRATIVE PANEL DECISION**

Vivatinell Limited v. Umut Ekinci, Mikro-Gen, and Umut Ekinci,  
Vivatinel Kozmofarmasotik San.Ve Tic. Ltd. STI.  
Case No. D2026-0391

### **1. The Parties**

The Complainant is Vivatinell Limited, United Kingdom, internally represented.

The Respondents are Umut Ekinci, Mikro-Gen, and Umut Ekinci, Vivatinel Kozmofarmasotik San.Ve Tic. Ltd. STI., Türkiye, internally represented.

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

The disputed domain names <nutrigens.com> and <vivatinell.com> are registered with Nics Telekomunikasyon A.S. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2026. On January 30, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 3, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 4, 2026 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on February 6, 2026.

On February 4, 2026, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain name is Turkish. On February 6, 2026, the Complainant requested English to be the language of the proceeding. The Respondent objected to the Complainant’s request and requested Turkish to be the language of the proceeding.

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 February 9, 2026. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2026. The Respondent requested, on February 25, 2026, an additional four calendar days in which to respond to the Complaint as per paragraph 5(b) of the Rules, and the Center granted the extension on the same day, and the new due date for Response was March 5, 2026. The Response was filed with the Center on March 5, 2026.

The Center appointed Kaya Köklü as the sole panelist in this matter on March 10, 2026. 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 a United Kingdom based company that provides food supplements, nutritional products, and related health products.

The Complainant is the registered owner of the United Kingdom trademark registrations No. UK00003301836, registered on July 6, 2018, for VIVATINELL, covering protection for various goods in class 3, and No. UK00003102316, registered on July 3, 2015, for NUTRIGEN, covering protection for various goods in class 5.

The Complainant further owns and operates its main websites at “www.nutrigen.co.uk” and “www.vivatinell.co.uk” respectively.

The Complaint is filed against two companies represented by the same individual in Türkiye. In the absence of any contrary indication in the case file, and noting a single Response was submitted regarding both disputed domain names, the Panel proceeds on the basis that the disputed domain names are under the common control of the same person. Accordingly, for the purposes of this Decision, the Panel will refer to both named respondents as “the Respondent”, whenever appropriate.

According to the case file, the Respondent, with the knowledge and consent of the Complainant, is the registered owner of Turkish trademark registrations No. 2004 22480, registered on May 16, 2005, for VIVATINELL, covering protection for various goods and services in classes 3, 5, and 35, and No. 2021 126170, registered on November 14, 2023, for NUTRIGEN, covering goods and services in classes 29, 30, and 35.

The disputed domain name <vivatinell.com> was registered on August 4, 2004.

The disputed domain name <nutrigen.com> was registered on May 29, 2007.

Based on the case file, the parties maintained a business relationship for a number of years and cooperated in connection with the use and promotion of the relevant marks at least for the territory of Türkiye. The disputed domain names were both controlled by the Respondent for a number of years with the consent and authorization of the Complainant so that the Respondent could administer and manage them on the Complainant’s behalf.

In 2021, the Parties subsequently formalized aspects of their relationship through a license agreement. According to the case file, this agreement was terminated following disputes concerning the payment of license fees.

Following the termination of the Parties' cooperation, a dispute arose between them regarding the control and return of the disputed domain names. This dispute ultimately led to the filing of the present Complaint under the Policy.

As evidenced in the Complaint, the disputed domain name <vivatinell.com> resolved to an English website under construction and branded as "Vivatinell Cosmopharmaceutical" (currently resolving to a Turkish pharmaceutical landing website under the trademark VIVATINELL), while the disputed domain name <nutrigens.com> resolved to an English website offering nutritional products under the trademark NUTRIGEN.

## **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 names.

### **B. Respondent**

The Respondent contends that the Complainant has not satisfied the second and third elements required under the Policy for a transfer of the disputed domain names. The Respondent particularly argues that it has a right to use the disputed domain names and has not registered and is not using the disputed domain names in bad faith.

## **6. Discussion and Findings**

### **6.1. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain names is Turkish. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including that the websites associated to the disputed domain names include English-language material and that the Parties previously engaged in commercial dealing in English language. The Complainant is of the opinion that requesting a translation of the Complaint would be time and costs intensive.

In its Response to the Center of March 5, 2026, the Respondent requested Turkish to be the language of the proceeding, arguing that all its provided evidential documents are in Turkish as well. In the alternative, the Respondent requested that it at least be permitted to submit its Response in Turkish.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 4.5.1.

The Panel notes that the Respondent was given the opportunity to respond in Turkish and that the Respondent made use of this opportunity. Also, the Panel concludes from the case file and the English websites associated to the disputed domain names that the Respondent is obviously able to read, write, and understand English. Considering the need to ensure the proceeding is conducted in a timely and cost effective manner, the Panel finds it is not foreseeable that the Respondent would be prejudiced, should English be adopted as the language of the proceeding.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## **6.2. Substantive Issues**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

It is further noted that the Panel has taken note of the [WIPO Overview 3.1](#) and, where appropriate, will decide consistently with the consensus views captured therein.

### **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 names. [WIPO Overview 3.1](#), section 1.7.

The Complainant has shown rights in respect of the NUTRIGEN and VIVATINELL trademarks for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The Panel finds the NUTRIGEN mark is recognizable within the disputed domain name <nutrigens.com>. Accordingly, the disputed domain name <nutrigens.com> is confusingly similar to the NUTRIGEN mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

The Panel further finds the VIVATINELL mark is recognizable within the disputed domain name <vivatinell.com>. Accordingly, the disputed domain name <vivatinell.com> is identical to the VIVATINELL mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

Although the addition of other terms or letters, here the additional letter "s" in the disputed domain name <nutrigens.com>, may bear on assessment of the second and third elements, the Panel finds such addition does not prevent a finding of confusing similarity between the disputed domain name and the NUTRIGEN mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.8.

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

## **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 that 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 3.1](#), section 2.1.

The Panel notes that the case file contains extensive submissions and documentary evidence concerning the history of the Parties' cooperation, the Respondent's trademark rights in Türkiye and elsewhere, and the circumstances under which the disputed domain names came to be held by the Respondent. The record suggests that the Parties maintained a commercial relationship over a number of years, during which they both appear to have used the relevant marks in collaboration in different territories. The Respondent holds trademark registrations, with the knowledge and consent of the Complainant, for the VIVATINELL and NUTRIGEN marks in Türkiye dating back to 2005 and 2023 respectively.

According to the evidence in the case file, the disputed domain names were entrusted to the Respondent years ago so that the Respondent could administer and manage them on the Complainant's behalf. The case file further indicates that the Parties subsequently formalized aspects of their commercial relationship through a license agreement concluded in 2021.

In light of this background, the question whether the Respondent has rights or legitimate interests in the disputed domain names would require a detailed assessment of the Parties' contractual relationship, the scope of any authorization granted by the Complainant, and the potential relevance of the Respondent's own trademark registrations.

In the circumstances of the present case, however, the Panel does not consider it necessary to reach a definitive determination on this element, since in view of the Panel, the Complaint fails in any event on the requirement of bad faith registration and use, as discussed below.

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

Under paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain names were registered and are being used in bad faith.

Based on the case record, the Panel does not find sufficient evidence that the disputed domain names were registered in bad faith. Notably, the disputed domain names were registered many years before the Complainant's asserted trademark rights were registered in the United Kingdom. In addition, the record indicates that the Respondent holds his own trademark registration for VIVATINELL at least since 2005. Furthermore, according to the Complainant's own submissions, the disputed domain names were entrusted to the Respondent by the Complainant years ago so that the Respondent could manage or administer them on the Complainant's behalf in the context of the Parties' ongoing business relationship. Further evidence shows that the Parties continued their cooperation thereafter and even concluded a formal license agreement in 2021. In these circumstances, the Panel is unable to conclude that the Respondent acquired the disputed domain names with a bad faith intent vis-à-vis the Complainant. Rather, the record indicates that the Respondent came to hold the disputed domain names with the knowledge and involvement of the Complainant during a period of commercial cooperation between the Parties.

The present dispute rather appears to arise from the subsequent breakdown of that commercial relationship and the Parties' disagreement as to their respective rights and obligations following the termination or non-renewal of their arrangements. Such present dispute does not go to the Respondent's intent at the time of registration of the disputed domain names, and so does not support a finding that the Respondent registered the disputed domain names in bad faith.

Accordingly, the Panel finds that the Complainant has failed to establish that the disputed domain names were registered in bad faith within the meaning of paragraph 4(a)(iii) of the Policy. In light of this finding, the Complaint must fail.

Consequently, the Panel finds the third element of the Policy has not been established.

#### **D. Reverse Domain Name Hijacking**

The Respondent has requested a finding of Reverse Domain Name Hijacking ("RDNH").

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.1](#), section 4.16.

While the Complaint has ultimately not succeeded, the Panel does not consider that the circumstances of the present case justify a finding of RDNH. The dispute arises out of a long-standing commercial relationship between the Parties involving the use of the relevant marks and the management of the disputed domain names. The record indicates a complex factual background, including cooperation over a number of years and a subsequent licensing arrangement.

In these circumstances, the Panel is not persuaded that the Complainant filed the Complaint in bad faith. The Panel particularly notes that the Complainant appears not to be represented by legal counsel and may not have fully appreciated the particular application of bad faith registration and use under the Policy. Moreover, based on the record before it, the Panel cannot exclude the possibility that the Respondent's conduct following the termination of the Parties' cooperation may give rise to allegations of bad faith use, even though the requirement of bad faith registration under the Policy has not been established.

Taking these factors into account, the Panel declines to make a finding of RDNH.

#### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: March 24, 2026