

ADMINISTRATIVE PANEL DECISION

BASF SE v. Ron D

Case No. DAI2024-0001

1. The Parties

The Complainant is BASF SE, Germany, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Ron D, Netherlands ("Kingdom of the"), represented by Siddharth and Co, Advocates, India.

2. The Domain Name and Registrar

The disputed domain name <basf.ai> is registered with Netherlands Domains (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 2, 2024. On January 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, and January 30, 2024, 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 (Redacted | EU Registrar) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 2024, 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 January 31, 2024.

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 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. On February 26, 2024, an automatic Response extension was granted until February 29, 2024 requested by the Respondent's representative. The Response was filed with the Center on February 29, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on March 7, 2024. 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.

The Complainant submitted a supplemental filing in reply to the Response on March 7, 2024.

4. Factual Background

The Complainant is a manufacturing group founded in Germany in 1865 and currently producing a variety of chemicals, materials, industrial solutions, surface technologies, nutrition and care products, and agricultural solutions. It is now organized as a European Company (an “SE”) headquartered in Ludwigshafen, Germany. The group employs approximately 111,000 people across nearly every country in the world, and its shares are traded on the Frankfurt Stock Exchange and as American Depositary Receipts in the United States of America. The Complainant is well known in Europe and internationally: it achieved EUR 87.3 billion in sales in 2022, and in 2023 it was ranked 119 among the Global Fortune 500 companies and 24 among the European Fortune 500. Forbes named the Complainant one of the “World’s Best Employers” in 2023, and TIME magazine recognized it as one of the “World’s Best Companies of 2023”.

The Complainant communicates with customers and prospective customers through its principal website at “www.basf.com”, which has been in use since 1995 and registered 1.3 million individual visits in November 2023 alone. The Complainant is also the registrant of nearly 150 other domain names incorporating its BASF trademark.

The Complainant reports that it has been using artificial intelligence (“AI”) machine-learning techniques in its business for more than a decade. “Complainant has most notably developed Rediso® and xarvio™ Digital Farming Solutions, both of which utilize AI to increase efficiency, minimize costs, and optimize outcomes in their respective fields.”

The Complainant holds numerous trademark registrations for BASF as a word mark for chemicals and materials in a wide variety of International classes. These include International Trademark Numbers 638794 (registered May 3, 1995) and 909293 (registered October 31, 2006), as well as European Union Trademarks numbers 000098020 (registered October 15, 1998) and 005458518 (registered November 5, 2007).

The Registrar’s Whois record shows that the disputed domain name was created on July 4, 2023, and the Registrar reports that it was registered in the name of a domain privacy service. After receiving notice of this dispute, the Registrar identified the underlying registrant as the Respondent “Ron D” of the Netherlands, listing no organization and giving a Gmail contact address. The Response does not further identify the Respondent or its business.

It appears that the disputed domain name has been associated only with a landing page offering the domain name for sale. At the time of this decision, that landing page is headed “dan.com”, “a GoDaddy brand”, advertising the services of dan.com and inviting site visitors to “get an asking price” from the seller of the disputed domain name, who is not identified.

The Complainant sent a cease-and-desist letter to the unidentified registrant through the Registrar and received no reply. This proceeding followed.

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 identical to its registered BASF trademark, which the Respondent has no permission to use. The Complainant asserts that there is no evidence that the Respondent is known by a corresponding name or has a legitimate interest in the disputed domain name.

Although an asking price is not listed on the associated website, the Complainant infers that it is "likely" in excess of the Respondent's reasonable out-of-pocket costs and therefore reflects a bad-faith attempt to extort a large sum from the Complainant. The Complainant also cites *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) ("*Telstra*") and other UDRP decisions articulating the doctrine of "passive holding" in bad faith, where a Respondent has no plausible, legitimate reason for registering and maintaining a domain name identical or confusingly similar to a well-known and distinctive trademark.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

The Respondent does not dispute that the Complainant holds BASF trademarks but contends that the Complainant does not have "exclusive" rights to use "BASF" as an acronym, as "it is also a common term that can be used in various contexts unrelated to the company". The Respondent suggests that the ".ai" suffix in the disputed domain name applies only to business in Anguilla, as it is the country code for that country, and argues that "the Complainant has failed to establish any exclusive rights to the use of the domain name in the country of Anguilla". The Respondent asserts that the Complainant's mark is better known for industrial chemicals and not necessarily known by consumers worldwide, and that it has no business in Anguilla.

The Respondent denies any intent to mislead Internet users and argues that there is no evidence of an intent to extort the Complainant. The Respondent disputes the characterization of the landing page associated with the disputed domain name as a "parking page"; it offers the domain name for sale but does not feature pay-per-click advertising links.

Given these alleged mischaracterizations and lack of evidence of bad faith, and what the Respondent views as inapposite or misleading case citations, the Respondent seeks a determination of Reverse Domain Name Hijacking ("RDNH") and suggests further sanctions (which are not provided in the UDRP):

"Furthermore, the complainant's misconduct warrants more than just a reprimand. Civil and criminal charges for fraud must be pursued to ensure accountability for their reprehensible actions."

6. Discussion and Findings

6.1. Preliminary Matter: Supplemental Filing

Neither the Rules nor the Supplemental Rules make provision for supplemental filings, except at the request of the panel (see Rules, paragraph 12). Paragraph 10 of the Rules enjoins the panel to conduct the proceeding "with due expedition". Therefore, UDRP panels are typically reluctant to countenance delay through additional rounds of pleading and normally accept supplemental filings only to consider material new evidence or provide a fair opportunity to respond to arguments that could not reasonably have been

anticipated. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.6.

The Complainant’s supplemental filing here replies to the Respondent’s demand for a finding of RDNH and certain claims regarding the registration of the disputed domain name, particularly in the use of an Anguilla country code Top-Level Domain (“ccTLD”). The Panel accepts the filing for the purpose of addressing these issues raised by the Respondent.

6.2. Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

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

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 Respondent refers to the Complainant’s lack of an Anguilla trademark (as the disputed domain name uses the ccTLD “.ai” for Anguilla), but the Policy does not require standing to be based on trademark registration in a corresponding jurisdiction:

“Noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element.”
[WIPO Overview 3.0](#), section 1.1.2.

The Complainant has shown rights in respect of the registered BASF trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 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.

Offering the disputed domain name for sale does not itself suffice to establish rights or legitimate interests. The disputed domain name is identical to a well-known and long-established trademark, which the Respondent does not claim permission to use. The Respondent also does not claim to be known by a corresponding name or to have used, or made preparations to use, the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial fair use. The Respondent merely asserts that the acronym "basf" "is also a common term that can be used in various contexts" but does not suggest what any of those contexts might be. Thus, while the Respondent took the opportunity to submit a Response, the Respondent failed to articulate and support any claim to rights or legitimate interests in the disputed domain name.

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

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 Respondent observes that the BASF mark is better known for industrial as opposed to consumer goods and services, and the Response cites decisions where panels found a respondent's denial of prior knowledge of a mark plausible. But the Panel notes that the Respondent in this case does not identify himself (the record includes only a first name and an initial) and submits no declaration. The Response does not deny the Respondent's prior awareness of the BASF mark. The mark is a distinctive acronym, not a dictionary word, and the record shows that it is very long established and associated with one of the world's best-known corporate groups. The Panel finds that the Respondent was more likely than not aware of the Complainant's mark when registering the disputed domain name.

The Respondent's arguments based on the supposed limitations of the ".ai" ccTLD and the Complainant's lack of an Anguilla trademark registration are misconceived. The Respondent cites a UDRP decision involving the ".au" ccTLD, but this is not on point, as the ".au" Domain Administration Rules limit registrations to individuals and entities located in Australia, while those that apply to the ".ai" ccTLD are not geographically restricted. In fact, the ".ai" ccTLD has become popular for use in reference to "artificial intelligence" (see Wikipedia article on ".ai"), as reflected in a rising number of UDRP proceedings involving ".ai" domain names. Moreover, the record shows that the Complainant's mark is globally well known, even if not registered in every jurisdiction. Thus, the disputed domain name is entirely capable of creating confusion and exploiting the Complainant's mark, despite using the ".ai" ccTLD.

The Complainant cites one of the circumstances of bad faith given in the Policy, paragraph 4(b)(i): registration with intent to sell the domain name to the Complainant or a competitor for a profit. The Respondent points out that this can only be inferred, because the Respondent did not approach the Complainant or list a specific price in offering the disputed domain name for sale. It is, however, a reasonable inference, because the disputed domain name is identical to the Complainant's distinctive mark, and it is highly unlikely that the Respondent would attempt to sell the domain name at a loss.

It is telling that the Response does not mention the Respondent's reason for acquiring the disputed domain name. The Respondent offers no plausible, legitimate rationale as an alternative to the reasonable inference that the Respondent sought a buyer interested in the disputed domain name for its trademark value – either the Complainant itself or a party that meant illegitimately to exploit the Complainant's well-known mark. .

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances also may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As the Complainant observes, panels since the early *Telstra* decision have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name, apart from offering it for sale, does not prevent a finding of bad faith in the circumstances of this proceeding. Although panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name, the lack of plausible reasons for selecting the disputed domain name, and the concealment of the Respondent's identity, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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

D. Reverse Domain Name Hijacking

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 3.0](#), section 4.16.

As the Panel finds the Complaint well-grounded, the Panel rejects the Respondent's request for a finding of RDNH and reminds the Respondent's representative that the Policy does not provide for other forms of relief.

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 <basf.ai> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: March 20, 2024