

ADMINISTRATIVE PANEL DECISION

Lonza Ltd. v. Mary Izzi, Sunrise Energy
Case No. DCC2024-0009

1. The Parties

The Complainant is Lonza Ltd., Switzerland, represented by Greer, Burns & Crain, Ltd., United States of America ("United States").

The Respondent is Mary Izzi, Sunrise Energy, United States.

2. The Domain Name and Registrar

The disputed domain name <lonza.cc> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 26, 2024. On March 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 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 FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 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 amendment to the Complaint on March 29, 2024.

The Center verified that the Complaint together with the amendment to the 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 April 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 25, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on May 3, 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.

4. Factual Background

The Complainant is Lonza Ltd., which is part of the Lonza Group Ltd., one of the leading companies providing manufacturing services to the pharmaceutical, biotech and specialty ingredients markets with revenues of over USD 2.4 billion in 2022 in the United States alone.

The Complainant registered the domain name <lonza.com> on January 8, 1997, which corresponds to its official website, and owns several trademark registrations for LONZA around the world, including the following:

- United States trademark registration No. 956,300 for the mark LONZA, registered on April 3, 1973, in international class 5;
- United States trademark registration No. 4,483,125 for the mark LONZA, registered on February 18, 2014, in international classes 9, 35, and 42;
- United States trademark registration No. 5,222,498 for the mark LONZA, registered on June 13, 2017, in international classes 40 and 42; and
- United States trademark registration No. 4,922,144 for the mark LONZA, registered on March 22, 2016, in international classes 40, 41, and 42.

The Respondent registered the disputed domain name with privacy protection service and it was identified by the Registrar as Mary Izzi, Sunrise Energy, from the United States.

The disputed domain name was registered on March 13, 2024, and currently resolves to an inactive website. According to the evidence provided by the Complainant, the disputed domain name previously resolved to a website displaying pay-per-click ("PPC") links.

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 it owns trademark registrations in several jurisdictions for LONZA and that the disputed domain name comprises the Complainant's trademark and company name in their entirety, only adding the country code Top-Level Domain ("ccTLD") ".cc", and that consumers will likely be confused into believing that there is a connection of source, sponsorship, affiliation, or endorsement between the Complainant's trademark and the disputed domain name.

According to the Complainant, the disputed domain name is identical to its trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name, is not commonly known by the disputed domain name and it has not acquired any trademark rights related to the disputed domain name.

The Complainant argues that the disputed domain name is currently parked by "sedo.com", which advertises the ways parked domains can be monetized by users. Therefore, the Respondent's actions in connection with the disputed domain name are not a bona fide offering of goods or services under the Policy.

In addition, the Complainant alleges that due to the Complainant's rights over the trademark LONZA, the Respondent registered the disputed domain name for the purpose of creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement, and the bad faith can be reasonably inferred. As further evidence of bad faith, the Complainant mentions that the website where the disputed domain name is parked contains advertisements for "biotech", "cell culture", and "pharmaceutical" links, which refer to the Complainant's businesses.

Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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 name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark 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. The Panel finds the mark is recognizable 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.

Furthermore, the addition of the ccTLD ".cc" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel notes that the disputed domain name, at the time of filing of the Complaint, resolved to a website with PPC links in regard to advertisements for "biotech", "cell culture" and "pharmaceutical", which refer to the Complainant's businesses. Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark, which is the case here. [WIPO Overview 3.0](#), section 2.9.

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 Panel notes that it is more likely than not that the Respondent was aware of the LONZA trademarks as the registrations of the Complainant's trademark as well as its domain name - identical to the disputed domain name albeit in the ".com" TLD - significantly predate the registration date of the disputed domain name.

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 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.

According to the evidence that was submitted by the Complainant, the disputed domain name resolved to a parking page, displaying PPC links with terms related to the same segment in which the Complainant acts, such as "biotech", "cell culture", and "pharmaceutical", which is also evidence of bad faith.

The disputed domain name does not currently resolve to an active website. Panels 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 does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes that the reputation and distinctiveness of the Complainant's trademark and the disputed domain name is identical to the Complainant's trademarks and domain name save for the ".com" TLD, 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 finds that the 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 <lonza.cc> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: May 15, 2024