

ADMINISTRATIVE PANEL DECISION

BioNTech SE v. 罗亮 (Liang Luo)

Case No. D2024-3156

1. The Parties

The Complainant is BioNTech SE, Germany, represented by MSA IP - Milojevic Sekulic & Associates, Serbia.

The Respondent is 罗亮 (Liang Luo), China.

2. The Domain Name and Registrar

The disputed domain name <biontechstock.club> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 31, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 in English on August 13, 2024.

On August 8, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On August 8, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 4, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on September 9, 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 was founded in 2008 and claims to be a next-generation biotechnology company pioneering the development of novel therapies for cancer and other serious diseases. The Complainant states that it develops and manufactures active immunotherapies for patient-specific approaches to the treatment of diseases, which include pharmaceutical candidates based on messenger RNA (mRNA) for use, inter alia, as individualized cancer immunotherapies and as vaccines against infectious diseases. The Complainant focuses on developing cancer therapeutics, including individualized immunotherapy, as well as vaccines for infectious diseases, including COVID-19 (together with pharmaceutical company Pfizer). The Complainant has a strong global media presence because it is one of the few companies which have developed a vaccine in relation to COVID-19 infections in response to the growing global health crisis.

The Complainant is the owner of an international trademark portfolio for the BIONTECH trademarks, with multiple registrations in various jurisdictions, among which the following:

- BIONTECH (word), European Union Trade Mark No. 008964447, registered on December 22, 2010, duly renewed and covering goods and services in classes 1, 5, 42, and 44;
- BIONTECH (word), International Registration No. 1370266, registered on July 10, 2017, covering goods and services in classes 1, 5, 16, 31, 42, and 44, and designating Australia, Türkiye, and United Kingdom;
- BIONTECH (figurative), International Registration No. 1478253, registered on April 5, 2019, covering goods and services in classes 1, 5, 42, and 44, designating China amongst other jurisdictions; and
- BIONTECH (word) Chinese Trademark No. 18022674, registered on August 14, 2018, and covering goods and services in classes 1, 5, 16, 31, 41, 42, and 44.

In addition, the Complainant is the owner of various domain names incorporating the BIONTECH trademark, among which <biontech.com>, registered on May 29, 1998.

The Respondent is an individual allegedly located in China.

The disputed domain name was registered on June 19, 2024. The Complainant submits evidence that the disputed domain name directs to an active landing website which states, in English, "This domain may be for sale" and lists a number of sponsored or pay-per-click links, such as "biontech stock forecast" and "biontech stock club reviews".

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 the disputed domain name is confusingly similar to its well-known trademarks for BIONTECH, since it incorporates these marks in their entirety, adding only the descriptive word “stock”. The Complainant argues that its trademarks BIONTECH are well-known and intensely used and contends that the Respondent is not a licensee of the Complainant nor is the Respondent otherwise entitled or authorized to use the Complainant’s BIONTECH mark for any purpose. The Complainant further states that it has not given the Respondent permission to use the mark and that the Respondent is not commonly known under the disputed domain name. Furthermore, the Complainant argues that the Respondent has merely registered the disputed domain name to display sponsored links or pay-per-click links and such use indicates that the Respondent is using the disputed domain name in order to make a commercial gain by abusing the Complainant’s reputation. The Complainant also contends that the Respondent knowingly registered the disputed domain name to capitalize on consumer recognition of the BIONTECH mark. Furthermore, the Complainant contends that email servers (MX-records) are configured in respect of the disputed domain name and that there is a real possibility that Internet users were receiving emails from email addresses with the extension “[...]@biontechstock.club” on the assumption that they were communicating directly with the Complainant or an entity affiliated with this company. Finally, the Complainant argues that the Respondent has engaged in a pattern of conduct of preventing trademark holders from reflecting their mark in a corresponding domain name as indicated in Paragraph 4(b)(ii) of the Policy. The Complainant specifically argues that the Respondent is a known cybersquatter, and has appeared on the respondent’s side in at least one previous UDRP proceeding which was decided in favour of the Complainant and that the Respondent is currently holding numerous other domain name registrations that appear to be targeting well-known trademarks.

The Complainant essentially argues that in the above circumstances, the Respondent has no legitimate rights or interests in the disputed domain name and the registration and use of the disputed domain name are made in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. 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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the allegation that to proceed in Chinese, the Complainant would have to retain specialized translation services at a cost that is likely to be higher than the overall cost for the present proceeding; the fact that the Respondent in the proceeding has already participated as a respondent in at least one previous UDRP dispute where the panel decided that, in the spirit of fairness and justice to both parties, the language of the proceeding shall be English; the fact that the disputed domain name consists exclusively of Latin characters, using the English word “stock” along with the generic Top-Level Domain (“gTLD”) “.club” which, the Complainant argues, strongly suggests that the Respondent has knowledge of the English language; and the fact that the disputed domain name resolves to a webpage where the content is exclusively in the English language, displaying various pay-per-click links and a statement in English, namely “This domain may be for sale”.

The Respondent did not make any submissions with respect to the language of the proceeding.

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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

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.

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.

Based on the available record, the Panel finds 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "stock", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

Moreover, upon review of the facts and evidence submitted, the Panel notes that the disputed domain name directs to an active landing website which states "This domain may be for sale" and lists a number of sponsored or pay-per-click links, such as "biontech stock forecast" and "biontech stock club reviews". The Panel also notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain name in connection with a bona fide

offering of goods or services. In the Panel's view, these elements show that the Respondent's intention was not to make any use of the disputed domain name as a bona fide provider of goods or services, or to make legitimate noncommercial or fair use of the disputed domain name. Instead, it shows the Respondent's clear intention to mislead and divert Internet users for commercial gain to this parking webpage offering pay-per-click links by taking unfair advantage of the goodwill and reputation of the Complainant's BIONTECH trademarks, see also [WIPO Overview 3.0](#), section 2.9.

Finally, the Panel also finds that the nature of the disputed domain name, incorporating the Complainant's well-known mark entirely and merely combining it with the term "stock", noting that the Complainant is a publicly traded company, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Based on the available record, 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 the Respondent has registered a domain name which is confusingly similar to the Complainant's well-known, intensely used and distinctive BIONTECH trademarks and combined them with the term "stock", which clearly suggests an affiliation or other connection to the Complainant. The Panel particularly accepts that the Complainant's BIONTECH marks are well-known, including in China, and refers to multiple prior UDRP decisions in which such marks were recognized as well-known marks, including *BioNTech SE v. CongGang Cao*, WIPO Case No. [D2024-2695](#). In this context, the Panel also refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anel have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". Furthermore, the Panel also notes that the Complainant's trademarks were registered many years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

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.

Particularly, the Complainant provides evidence that the disputed domain name directs to an active landing website which states "This domain may be for sale" and lists a number of sponsored or pay-per-click links, such as "biontech stock forecast" and "biontech stock club reviews". The Panel concludes that such use constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy.

Further, the Panel agrees with the Complainant that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Respondent's evidence from which it is clear that the Respondent has been involved as a respondent in a previous similar UDRP case in which the respective panel concluded that the Respondent had registered and used the respective domain names in bad faith, see *American Airlines, Inc. v. 罗亮 (Liang Luo)*, WIPO Case No. [D2024-1073](#)

and, additionally, the Panel accepts the Complainant's evidence showing that the Respondent has apparently registered a number of trademark-abusive domain names, which seem to include typosquatted versions of well-known third party marks. Finally, the Panel has also reviewed the Complainant's evidence containing the MX records for the disputed domain name, which indicate that the Respondent has connected this disputed domain name to email servers. The Panel finds that this creates a grave risk that the Respondent may be using this disputed domain name, which is confusingly similar to the Complainant's well-known marks, for misrepresentations and/or phishing and spamming activities (see in this sense also previous UDRP decisions such as *Carrefour v. WhoisGuard, Inc.*, *WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

Based on the available record, 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 <biontechstock.club> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: September 13, 2024