

ADMINISTRATIVE PANEL DECISION

CKM Holdings Inc. v. Grant Chonko, Genesis Biosciences
Case No. D2022-0479

1. The Parties

Complainant is CKM Holdings Inc., United States of America (“United States”), represented by Pinsent Masons LLP, United Kingdom.

Respondent is Grant Chonko, Genesis Biosciences, United States.

2. The Domain Name and Registrar

The disputed domain name <genesisbloosciences.com> (hereinafter the “Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 11, 2022. On February 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 11, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 14, 2022, 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 February 15, 2022.

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 February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 16, 2022.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on March 21, 2022. 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 owns registrations in the United Kingdom (Registration No. UK00908269698, registered on February 22, 2010) and the European Union (Registration No. 008269698, registered on February 22, 2010) for the mark GENESIS BIOSCIENCES (word and design) (hereinafter the “Marks”). The registrations cover use of the Marks in connection with Complainant’s anti-microbial and microbial products, waste treatment services, and scientific research associated therewith.

Complainant operates a website under the <genesisbiosciences.com> domain name that resolves to multiple country-specific websites that provide information on how to purchase Complainant’s products and services in each respective county. Complainant registered its domain name on April 30, 2009.

Complainant alleges that it is “well known for several different ranges of market-leading anti-microbial and microbial cleaning products[...].” Complainant further alleges that, “[i]n addition, [...] Complainant has advertised goods and services bearing the [...] Marks both online through its websites and off-line in a variety of publications. As a result of [...] Complainant’s activities it has built up substantial goodwill and gained a valuable reputation in the [...] Marks[...].”

Respondent registered the Disputed Domain Name on October 12, 2021, long after Complainant registered the Marks and the <genesisbiosciences.com> domain name. Although the Disputed Domain Name currently does not resolve to active webpages, it has been configured to send and receive emails.

When Respondent registered the Disputed Domain Name, he listed “Genesis Biosciences” as its “Organization Name”. However, this is false as Complainant’s organization is not affiliated Respondent and Respondent’s address is not an address associated with Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the Marks, as the Disputed Domain Name incorporates the entirety of Complainant’s trademark, swapping the letter “l” for the first “i” in the word “biosciences”. Complainant alleges that Respondent selected the Disputed Domain Name to attract business from Complainant and/or to divert the public from Complainant to Respondent.

Next, Complainant states that Respondent has no rights or legitimate interests in the Disputed Domain Name, which currently does not resolve to an active website. According to Complainant, Respondent had full knowledge of Complainant’s activities and reputation when registering the Disputed Domain Name.

Finally, Complainant contends that Respondent registered and continues to use the Disputed Domain Name in bad faith. Given Respondent’s purported knowledge of Complainant’s goodwill in the GENESIS BIOSCIENCES trademark, Respondent is not capable of using the Disputed Domain Name for a legitimate purpose.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant's trademark registrations establish that it has rights in the Marks. In addition, Respondent has not denied Complainant's allegations that the Marks are well-known based on its widespread use and advertising. The Panel further finds that the Disputed Domain Name is confusingly similar to Complainant's Marks. Respondent's substitution of a visually similar letter – an "l" for an "i" – is an example of an intentional misspelling of a trademark that results in a domain name that is confusingly similar to the Marks. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.9; see also, e.g., *Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel*, WIPO Case No. [D2016-0068](#) (finding [www.acteli0n.com](#) confusingly similar to the ACTELION mark); and *CyberLink Corporation v. Privacy service provided by Withheld for Privacy ehf / alice eye*, WIPO Case No. [D2021-3055](#) (finding [www.cyber1ink.com](#) confusing similar to the CYBERLINK mark).

Therefore, Complainant has satisfied Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant has presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. Complainant has not authorized Respondent to use its trademark. Respondent also has not answered this Complaint and there is no evidence or reason to suggest Respondent is, in fact, commonly known by the Disputed Domain Name or that Respondent is using the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

Additionally, typosquatting is evidence of a lack of rights or legitimate interests in the Disputed Domain Name. See *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#).

The Panel finds that Respondent does not have rights or a legitimate interests in the Disputed Domain Name and that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent registered and used the Disputed Domain Name in bad faith. Typosquatting, such as the substitution of similar-appearing letter, is evidence that Respondent was aware of and sought to impersonate Complainant when it registered the Disputed Domain Name. See, e.g., *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo, supra*. In addition, Respondent explicitly impersonated Complainant during the registration process, by falsely listing "Genesis Biosciences" (no misspelling) as the "Organization Name" under "full contact details [...] for the domain name registrant [...]".

Although there are no active webpages currently associated with the Disputed Domain Name, this does not prevent a finding of bad faith use where, as here, (i) Complainant's Mark is distinctive, (ii) Respondent did not answer the Complaint, (iii) Respondent included false contact information when it registered the Disputed Domain Name, and (iv) there is no plausible good faith use to which the Disputed Domain Name could be put. See [WIPO Overview 3.0](#) at section 3.3.

In addition, three mail exchange ("MX") records have been activated for the Disputed Domain Name, thereby enabling emails to be sent and received using the Disputed Domain Name. A MX record is a resource record in the domain name system specifying which email server is responsible for accepting email on behalf of a domain name. It is not necessary to assign MX records to a domain name if the registrant does not intend to use the domain name to send and receive email. Activating the MX records to designate an email server and enable email is an action beyond mere registration of the Disputed Domain Name and may constitute bad faith use. See also *Equinor ASA v. Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2021-2835](#); *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#);

and *Ares Management LLC v. juandaohanjing* (上海锐思人力资源有限公司), WIPO Case No. [D2020-3254](#). See also [WIPO Overview 3.0](#), section 3.3.

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 <genesisblosciences.com> be transferred to Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: April 12, 2022