

## **ADMINISTRATIVE PANEL DECISION**

BioNTech SE v. Anonymize, Inc. / Wang Liquan  
Case No. D2022-3413

### **1. The Parties**

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

The Respondent is Anonymize, Inc., United States of America / Wang Liquan, China.

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

The disputed domain name <biontech.asia> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com. (the “First Registrar”).

The disputed domain name <biontech.tv> is registered with Epik Holdings, Inc. (the “Second Registrar”).

The disputed domain names <biontech.asia> and <biontech.tv> are hereafter referred to together as “the Domain Names”.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2022. On September 14, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On September 15, 2022, the First Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. On September 16, 2022, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 24, 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 the Respondent of the Complaint, and the proceedings commenced on September 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 19, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on October 27, 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.

On September 20, 2022, the Registrar for <biontech.tv> confirmed that although the Domain Name had expired on September 10, 2022, it would remain locked for the purpose of these proceedings.

Although the information received from the Second Registrar indicated that a proxy service was the owner of the Domain Name <biontech.tv>, the Second Registrar explicitly confirmed (with the consent of the registrant) on September 22, 2022 that there has been no change of ownership and that Mr. Wang Liqun is still the registrant of the Domain Name <biontech.tv> (Annex 21 to the Complaint).

#### **4. Factual Background**

The Complainant is a multinational biotechnology company.

The Complainant is the owner of, *inter alia*, European Union trade mark No. 8964447 for BIONTECH, registered on December 22, 2010 for biotechnology goods and services.

The Domain Names were registered in 2021 and have been offered for sale on the Internet generally.

The Respondent has registered other domain names not involved in these proceedings containing the Complainant's BIONTECH trade mark and has been the subject of a large number of adverse rulings under the UDRP for registration of domain names containing the trade marks of third parties.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant's contentions can be summarised as follows:

The Complainant is the owner of the mark BIONTECH registered, *inter alia*, as detailed above.

The Domain Names registered in 2021 are identical for the purposes of the Policy to the Complainant's BIONTECH mark adding only a generic Top Level Domain ("gTLD") ".asia" or ".tv" which are typically disregarded for the purposes of comparison of a domain name and the complainant's mark.

The Respondent is not commonly known by the Domain Names and has not been authorised by the Complainant to use the Complainant's BIONTECH trade mark. The Domain Names have not been used so there has been no *bona fide* offering of goods and services or legitimate noncommercial or fair use. The Domain Names have been offered for sale generally on the Internet. The Respondent has no rights or legitimate interests in the Domain Names.

Registration of a domain name containing a well-known third party mark with prior rights and offering such a domain name for sale generally is evidence of registration and use in bad faith, as is passive holding of such a domain name.

The Respondent is a serial cybersquatter and has registered other domain names not involved in these proceedings containing the Complainant's BIONTECH trade mark and has been the subject of a large number of adverse rulings under the UDRP for registration of domain names containing the trade marks of third parties demonstrating a pattern of bad faith activity.

The Domain Names have been configured for email servers and so the Complainant is also concerned about possible phishing.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Domain Names in this Complaint combine the Complainant's well-known BIONTECH mark (registered, *inter alia* as detailed above) and the gTLD ".asia" or ".tv".

The addition of a gTLD (in this case ".asia" or ".tv") which is a necessary functional part of a domain name does not prevent the Domain Names from being identical to the Complainant's BIONTECH mark for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Names are identical to a mark in which the Complainant has rights for the purpose of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant has not authorised the use of its BIONTECH mark. There is no evidence or reason to suggest that the Respondent is, in fact, commonly known by the Domain Names. There has been no use of the Domain Names except to resolve to a website on which the Domain Names are listed for sale. Such use does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production on this element accordingly shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Domain Names. The Domain Names contain the Complainant's mark, which has a reputation for biotechnology products and services.

As such, the Panel finds that the Respondent does not have rights or a legitimate interests in the Domain Names and that the Complainant has satisfied the second limb of the Policy.

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

The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from or exploit the trade mark of another.

The mere registration of a domain name that is identical to a widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith.

Considering (i) the distinctiveness and reputation of the Complainant's BIONTECH mark, (ii) the failure of the Respondent to submit a Response or to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent's concealing its identity for <biontech.tv>, and (iv) the implausibility of any good faith use to which the Domain Names may be put, the Panel finds that the Domain Names have been registered and

used in bad faith.

Further, the Domain Names have been offered for sale generally on the Internet and appear to be otherwise passively held. Offering a domain name containing the well-known trade mark of a third party for sale for profit generally on the Internet and/or passively holding it without any explanation has commonly been held by UDRP panels to be registration and use in bad faith under the Policy.

Finally, the Respondent has registered other domain names not the subject of these proceedings containing the Complainant's BIONTECH trade mark and has been the subject of a considerable number of adverse rulings under the UDRP for registering the trade marks of third parties as part of domain names demonstrating that the Respondent is a serial cybersquatter engaging in a pattern of bad faith activity.

As such, the Panel holds that the Complainant has made out its case that the Domain Names were registered and are being used in bad faith and has satisfied the third limb 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 Domain Names, <biontech.asia> and <biontech.tv>, be transferred to the Complainant.

*/Dawn Osborne/*

**Dawn Osborne**

Sole Panelist

Date: November 10, 2022