

## **ADMINISTRATIVE PANEL DECISION**

F. Hoffmann-La Roche AG v. Ali Esmaelnejad  
Case No. D2022-3667

### **1. The Parties**

The Complainant is F. Hoffmann-La Roche AG, Switzerland, represented internally.

The Respondent is Ali Esmaelnejad, Hungary.

### **2. The Domain Name and Registrar**

The disputed domain name <bioroche.com> is registered with CSL Computer Service Langenbach GmbH dba Joker.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 3, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 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 the Complainant on October 6, 2022 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 also on October 6, 2022.

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 October 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 28, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on November 2, 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**

The Complainant, commonly known as “Roche” and established in 1896, is a Swiss healthcare company and one of the leading pharmaceutical companies in the world. During fiscal year 2021, it had revenues of CHF 62.8 billion and 100,000 employees in more than 100 countries.

The Complainant owns trademark registrations to ROCHE in a number of jurisdictions around the world including International Registrations Nos. 340483 and 346223 registered on August 15, 1967 and January 19, 1968, respectively. The Complainant owns and uses the domain name <roche.com> for its official website.

The Respondent appears to be an individual with an address in Hungary.

The disputed domain name was registered on August 20, 2020, and at the time of the filing of the Complaint, resolved to a website, seemingly of a German company called “Bioroche Company”. The website included *inter alia* the following text: “Roche Company as mother company of Bioroche, founded in 1896 in Switzerland and as the world's largest biotech company, have been committed to improving lives”.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the ROCHE trademark in which the Complainant has rights. The Complainant asserts that the disputed domain name incorporates the Complainant's mark ROCHE in its entirety, and the addition of the generic term “bio” does not sufficiently distinguish the disputed domain name from ROCHE.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the Respondent linked the disputed domain name to a website for a company named “Bioroche” which describes itself to be an affiliate of the Complainant, but that the Complainant has no connection to such a company whatsoever. The Complainant also contends that the address given for Bioroche is the same as one of its affiliates. The Complainant argues that the Respondent deliberately creates a likelihood of confusion among Internet users and raises a possibility of a phishing scam, which also does not constitute legitimate interest on the part of the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that based on the fame of the ROCHE trademark, it is unlikely for the Respondent to have been unaware of the Complainant and its ROCHE mark when registering the disputed domain name. The Complainant also contends that the Respondent is making bad faith use of the disputed domain name through the use of a website that captures the look and feel of the Complainant's website, and not only that, even uses the Complainant's slogan “Doing now what patients need next”. The Complainant asserts that the Respondent is illegally capitalizing on the Complainant's reputation and good will in the ROCHE trademark.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark ROCHE. As for the disputed domain name, it contains the ROCHE mark in its entirety along with the term “bio”. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the ROCHE mark is readily recognizable within the disputed domain name, and the additional term “bio” does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

### B. Rights or Legitimate Interests

On the basis of the present record as set out above, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant’s mark, and the additional term “bio” suggests that the disputed domain name belongs to the bio-related department or subsidiary of the Complainant, and carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

### C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

Considering the fame of the Complainant and the Complainant’s trademark, it is highly unlikely for the Respondent to have not known about the Complainant prior to registering the disputed domain name. Rather, especially with no response to claim otherwise, it is more probable that the Respondent registered the disputed domain name with the intention of benefiting from the fame of the mark in some way. This is apparent in the actual use of the disputed domain name. Specifically, the Respondent has linked the disputed domain name to a purported homepage of a supposed company called “Bioroche” which describes itself as the “bio-nanotechnology branch of Roche Company”, yet the Complainant asserts that it does not have any relationship with any company by this name. Not only that, the website displays a slogan of the Complainant and uses the address of one of the Complainant’s affiliates as its own.

Through such use, the Respondent created a likelihood of confusion with the business and trademark of the Complainant, and the Panel cannot conceive of any good faith use for registering and using the disputed domain name in such a manner. Furthermore, the Respondent did not respond to a cease and desist letter which is further evidence of the Respondent’s bad faith.

For the reasons given above, the Panel finds that the third element has been established.

## 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, <bioroche.com> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: November 16, 2022