

ADMINISTRATIVE PANEL DECISION

KBI Biopharma, Inc. v. Mojub Baeni
Case No. D2023-1072

1. The Parties

Complainant is KBI Biopharma, Inc., United States of America (“United States”), represented by Williams Mullen, P.C., United States.

Respondent is Mojub Baeni, United States.

2. The Domain Name and Registrar

The disputed domain name <kbibiopharmajobs.com> 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 9, 2023. On March 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2023, 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 Complainant on March 13, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 14, 2023.

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 Respondent of the Complaint, and the proceedings commenced on March 20, 2023. In accordance with the Rules, paragraph 5, the due date

for Response was April 9, 2023. Respondent did not submit a response. Accordingly, the Center notified Respondent's default on April 11, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on April 26, 2023. 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 is a company based in the United States. For several years prior to the registration of the disputed domain name, Complainant has been offering biopharmaceuticals under the mark KBI BIOPHARMA. In this regard, Complainant is the owner of several trademark registrations for its KBI BIOPHARMA mark in the United States, where Respondent lists an address of record. These include, among others, United States Registration No. 4340914 (registered May 28, 2013).

The disputed domain name was registered on December 6, 2022. Although it appears to resolve to a currently inactive webpage, Respondent has used an email address associated with the disputed domain name to engage in potentially fraudulent behavior whereby Respondent posed as an official representative of Complainant, seeking to obtain sensitive personal and financial information from prospective recruits. Respondent has no affiliation with Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the "well-known" KBI BIOPHARMA mark, and that Complainant has corresponding trademark registrations. Complainant contends that Respondent has incorporated the KBI BIOPHARMA mark, in its entirety, into the disputed domain name, and merely added the descriptive term "jobs."

Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith to profit from the good will of Complainant's mark for Respondent's own commercial gain. In particular, Complainant contends that Respondent has acted in bad faith in registering the disputed domain name under a concealed privacy service and a false name, impersonating Complainant. Complainant further contends that Respondent has used a corresponding false identity to send out fraudulent messages via social media recruiting mechanisms, in an apparent attempt to confuse prospective recruits, who are seeking jobs with Complainant, into providing sensitive personal and financial information.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name <kbibiopharmajobs.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates in full the KBI BIOPHARMA mark, and merely adds the term “jobs.”

Numerous UDRP panels have agreed that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity for purposes of satisfying this first prong of paragraph 4(a) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name “in connection with a *bona fide* offering of goods or services;” (ii) demonstration that Respondent has been “commonly known by the domain name;” or (iii) “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Respondent did not submit a reply to the Complaint, however. Rather, as mentioned in Section 4 of this Panel’s decision, Respondent has used an email account associated with the disputed domain name to engage in an apparent phishing scheme via social media. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent’s lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

The Panel therefore finds that the Respondent has no rights of legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or of a product or service on [the] web site or location.” As noted in Section 4 of this decision, although the disputed domain name resolves to a currently inactive web page, according to the evidence in the Complaint, Respondent has used the disputed domain name to set up an email account impersonating Complainant in a manner apparently calculated to confuse potential recruits, who are seeking jobs with Complainant, into providing Respondent their sensitive personal and financial information.

Hence, Respondent is trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. The Panel thus finds that despite the passive website use, Respondent registered and used the disputed domain name with knowledge of Complainant's prior rights, thereby evidencing bad faith.

See [WIPO Overview 3.0](#), section 3.4, which notes that the "use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution" and many "such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers".

Overall, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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 <kbibiopharmajobs.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: May 4, 2023