

## **ADMINISTRATIVE PANEL DECISION**

Celltrion, Inc. v. Keeley Washington

Case No. D2023-1746

### **1. The Parties**

The Complainant is Celltrion, Inc., Republic of Korea, represented by SILKA AB, Sweden.

The Respondent is Keeley Washington, United States of America (“United States”).

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

The disputed domain name <trioxima.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 April 20, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 (Privacy service provided by Withheld for Privacy Ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 2023, 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 on April 25, 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 the Respondent of the Complaint, and the proceedings commenced on April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on May 23, 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

The Complainant is a pharmaceutical company located in the Republic of Korea. Its products include a prescription medicine named TRUXIMA which is used to treat rheumatoid arthritis and other conditions.

The Complainant holds numerous trademark registrations for the mark TRUXIMA, including for example United States trademark registration number 4962045 for the word mark TRUXIMA, registered on May 24, 2016. It is the owner of additional registrations for TRUXIMA in, e.g., Australia, the United Kingdom, China and Brazil as well as holding an International trademark designating *inter alia* the European Union and Iceland.

The Complainant operates an official website at “www.truxima.com”.

The disputed domain name was registered on January 12, 2023.

The Complainant produces evidence that the disputed domain name has resolved to a parking page operated by the Registrar which offers what appear to be pay-per-click (“PPC”) links to goods and services relating principally to computers and software.

The Complainant also produces evidence that MX (mail) servers have been configured upon the disputed domain name.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant states that it has annual revenues in excess of USD 1.5 billion with sales in over 90 countries and over 2,145 employees worldwide. It submits that TRUXIMA is one of its most successful products internationally and that in 2016 it signed an agreement with Teva Pharmaceuticals for commercialization of the product in the United States and Canada.

The Complainant submits that the disputed domain name is confusingly similar to its TRUXIMA trademark, differing from that mark only by the insertion of an additional letter “i”.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its TRUXIMA trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant submits that the Respondent is not legitimately using the disputed domain name for the purpose of a PPC website since the name “triuxima” has no meaning in either the English or Icelandic language and has clearly been adopted only to capitalize on the Complainant’s reputation and goodwill. The Complainant contends that the disputed domain name could not be fairly used in any event owing to its near identity with the Complainant’s trademark.

The Complainant submits that the disputed domain name has been registered and has been used in bad faith. It contends that owing to the worldwide notoriety of its TRUXIMA trademark since at least 2015 and the near identity of the disputed domain name to that trademark, it is inconceivable that the Respondent could have registered the disputed domain name for any reason other than to refer to the Complainant’s trademark and product.

The Complainant contends that the Respondent’s use of the disputed domain name for a website containing PPC links is further evidence of bad faith, since the term “triuxima” has no meaning other than to imitate its TRUXIMA trademark. It submits, therefore, that the Respondent is intentionally seeking to attract, for

commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's TRUXIMA trademark (paragraph 4(b)(iv) of the Policy).

The Complainant further contends that the Respondent's configuration of MX servers upon the disputed domain name enables it to send emails from addresses "[...][@truxima.com](mailto:truxima.com)" which would bear a close resemblance to the Complainant's genuine emails and raises a concern as to potential use of the disputed domain name for unlawful purposes.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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

The Complainant is the owner of registered trademark rights in the mark TRUXIMA. The disputed domain name differs from that trademark only by the insertion of an additional letter "i", which does not prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

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

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

In the case of a website containing PPC links, panels under the UDRP have typically found that a domain name comprising a dictionary word may legitimately be used to promote PPC links genuinely related to that dictionary meaning and not to target third-party trademark rights (see *e.g.* section 2.10 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Those circumstances do not apply in this case, since the disputed domain name is not used in connection with any dictionary meaning and, indeed, there is no evidence that it has any meaning other than to cause confusion with the Complainant's trademark. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

The Panel finds the Complainant's trademark TRUXIMA to be a coined term and to constitute a distinctive and widely-recognized trademark. The Respondent has provided no explanation for its choice of the disputed domain name, which differs from the Complainant's trademark only by one character and, in the view of the Panel, represents an obvious attempt at "typosquatting" or other attempt to cause confusion with the Complainant's trademark. The Panel therefore concludes that the Respondent had the Complainant's trademark in mind when registering the disputed domain name and did so for the purpose of taking unfair advantage of the Complainant's goodwill attaching to that trademark.

The Panel finds that the disputed domain name is inherently deceptive, as inevitably suggesting to Internet users that it is in some manner owned or operated by, or otherwise legitimately affiliated with, the Complainant and its product. The Panel finds therefore that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel accepts the Complainant's submission that the configuration of MX servers upon the disputed domain name gives rise to additional cause for concern.

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

### **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, <truxima.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: June 6, 2023