

ADMINISTRATIVE PANEL DECISION

Astellas Pharma Inc. v. Huade Wang
Case No. D2023-2031

1. The Parties

The Complainant is Astellas Pharma Inc., Japan, represented by Kathy Wright, United Kingdom.

The Respondent is Huade Wang, China.

2. The Domain Name and Registrar

The disputed domain name <astellastarbenefits.com> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2023. On May 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 9, 2023, the 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 (Redacted for Privacy, Dynadot Privacy Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 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 amended Complaint on May 17, 2023.

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 May 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 8, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 13, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is main shareholder of the Astellas global group of companies. It manufactures and sells pharmaceuticals via authorized distributors and/or licensees.

The Complainant is proprietor of globally registered trademarks, such as Chinese trademark registration number 11759717 registered on April 28, 2014, and European Union trademark registration number 014763593 registered on April 5, 2016. The Complainant has different domain names and websites, including a website at “www.astellasstarbenefits.com” used to provide a service for the Complainant’s employees.

According to the Complainant, the Respondent registered the Domain Name on November 21, 2021. At the time of drafting the Decision, the Domain Name resolved to webpage that displays pay per view links.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. The Complainant provides evidence of trademark registrations and argues that its global trademark is well-known within the pharmaceutical sector and forms part of its corporate name.

The Complainant argues that the Respondent is not recognized as an authorized third party, nor recognized as authorized to use the Complainant’s trademark or corporate name. The Respondent is not commonly known by the name ASTELLAS.

The Complainant suggests that the Respondent must have been aware of the Complainant and its trademark when the Respondent registered the Domain Name. The Domain Name is virtually identical to the Complainant’s domain name used for a website for the Complainant’s employees. The Complainant believes that the Domain Name was used to intentionally confuse and deliberately mislead the public into thinking that they have accessed a genuine Astellas site. The Complainant argues that the Respondent is intentionally attempting to attract for commercial gain, Internet users, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has established that it has rights in the trademark ASTELLAS. The Domain Name incorporates the Complainant’s trademark, adding “tarbenefits”. The addition does not prevent a finding of confusing similarity between the Domain Names and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”); see [WIPO Overview 3.0](#), section 1.11.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

It is likely from the composition of the Domain Name that the Respondent knew of the Complainant and its prior rights, including its webpage for its employees, when the Respondent registered the Domain Name.

The Domain Name appears to be used to intentionally and deliberately mislead the public into thinking that they have accessed the Complainant’s webpage. The Respondent attempts to attract for commercial gain, Internet from the Complainant’s webpage by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement. The Complainant’s trademark is known in the pharmaceutical sector. The Domain Name appears to be an intentional misspelling of the Complainant’s domain name <astellasstarbenefits.com>. The Respondent has failed to provide any evidence of good-faith use. The Panel finds it implausible that the Respondent may put the Domain Name into any good faith use. The Respondent has initially concealed its identity, and under the circumstances, this is indication of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 the Domain Name <astellastarbenefits.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: June 15, 2023