

ADMINISTRATIVE PANEL DECISION

BioNTech SE v. Host Master, 1337 Services LLC
Case No. D2023-5017

1. The Parties

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

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <stellar-biontech.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 8, 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 December 13, 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 December 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on January 19, 2024. 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 German next generation biotechnology company founded in 2008 and the developer in collaboration with Pfizer of a very successful COVID-19 vaccine.

The Complainant is the owner of a number of registrations for trademark BIONTECH, including but not limited to:

- European Union ("EU") Trademark No. 008964447, BIONTECH, registered on December 22, 2010, covering goods and services in classes 1, 5, 42 and 44;
- EU Trademark No. 016241465, BIONTECH, registered on November 9, 2017, and covering goods and services in classes 1, 5, 9, 10, 16, 31, 41, 42 and 44;
- International Registration No.1478253, BIONTECH (word/device), registered on April 5, 2019, covering goods and services in classes 1, 5, 42 and 44;
- International Registration No. 1370266, BIONTECH, registered on July 10, 2017 and covering goods and services in classes 1, 5, 16, 31, 42 and 44; and
- United States of America Trademark No. 5712036, BIONTECH, registered on April 2, 2019 and covering goods and services in classes 1, 5, 16, 31, 42 and 44.

All the above marks, as well as the others obtained by the Complainant, were registered way before the registration of the disputed domain name.

The Complainant also owns a number of domain names including <biontech.com> registered on May 29, 1998; <biontech.de> registered on October 10, 2007; <biontech.info> registered on February 27, 2009; <biontech.net> registered on February 27, 2009; <biontech.us> registered on May 8, 2019; <biontechcovid19.com> registered on June 5, 2020; and <biontechglobal.com> registered on April 20, 2020.

The disputed domain name was registered on October 25, 2023, and resolves to the Complainant's website.

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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark BIONTECH, in which the Complainant holds rights. In fact, the disputed domain name is composed by the mark BIONTECH, which is identical to the Complainant's registered mark, together with the word "stellar", which does not prevent the recognition of the Complainant's famous sign.

The Complainants owns several registrations worldwide for the trademark BIONTECH, as well as domain names bearing this mark, as evidenced by annex 9 to the Complaint.

The Complainants contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with nor authorized by the Complainants in any way.

The Complainant states that given its extensive presence in the media in relation to the COVID-19 health crisis and recognition of its vaccine, the BIONTECH trademark acquired well-known status within a short period of time. The Complainant points to reporting of its BIONTECH trademark around the world, both online and in traditional form.

The disputed domain name adopted by the Respondent – a reproduction of the Complainant’s registered mark associated with descriptive abbreviation – show a clear intention of misleading the Internet users.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by a Complainant to obtain relief. These elements are:

- (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 to 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) 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 presented evidence of ownership of the trademark BIONTECH in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark to identify the original services. In addition, the international renown that the trademark acquired during the pandemic can be considered as evidence of the necessary link of the mark to the Complainant.

Further, the Panel finds that the disputed domain name is confusingly similar to the trademark belonging to the Complainants, since this mark is entirely reproduced in the disputed domain name registered by the Respondent with the addition of the term “stellar”. According to [WIPO Overview 3.0](#) section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

In addition, it is well established that “.com”, as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant’s mark [WIPO Overview 3.0](#), section 1.11.1.

Hence, the Panel concludes that the first element of the Policy has been satisfied by the Complainant in this proceeding.

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.

Given the clear evidence that the trademark BIONTECH is registered in the Complainant's name and is widely known as identifying the Complainant's products, and that the Complainant has not licensed its trademark to the Respondent, the Panel finds that the Complainant has established prima facie that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such prima facie case. Moreover, the combination of the Complainant's trademark with the term "stellar" carries a risk of implied affiliation and thus such composition cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel believes that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The disputed domain name was registered to clearly mislead Internet users – hence the addition of the descriptive word "stellar" to the trademark and the redirection of the disputed domain name to the Complainant's web page.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may have been intended to use the Complainant's renowned trademark for unlawful purposes, the fame of the Complainant's trademark and the composition of the disputed domain name. [WIPO Overview 3.0](#), section 3.4.

Further, the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. Respondent has not rebutted that it may engage in this practice, which is noteworthy given the configuration of MX records for the disputed domain name.

The Panel finds that the Complainant has also proved the third element 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 disputed domain name <stellar-biontech.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: February 2, 2024.