

ADMINISTRATIVE PANEL DECISION

BioNTech SE v. Abdelmonaime salbi, Slibaname
Case No. D2023-5382

1. The Parties

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

Respondent is Abdelmonaime salbi, Slibaname, Morocco.

2. The Domain Name and Registrar

The disputed domain name <biontechai.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 28, 2023. On December 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from 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 January 9, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 13, 2024.

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 Respondent of the Complaint, and the proceedings commenced on January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 14, 2024. On February 14 and 19, 2024, Respondent has sent email communications to the Center.

The Center appointed Clive L. Elliott K.C., as the sole panelist in this matter on February 22, 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

Complainant was founded in 2008 and is a biotechnology company with its registered office in Mainz, Germany, pioneering the development of novel therapies for cancer and other serious diseases. The company focuses on developing cancer therapeutics, including individualized immunotherapy as well as vaccines for infectious diseases, including COVID-19.

Complainant has a global presence, being one of the companies that developed a vaccine in relation to COVID-19 infections. In co-operation with Pfizer, Complainant started “Project Lightspeed” and developed a successful vaccine known as the BioNTech/Pfizer Covid-19 vaccine.

Complainant is the registered owner of numerous trade marks for BIONTECH (“Complainant’s Mark”) including the following:

Mark	Jurisdiction	Registration No	Registration Date	Classes
BIONTECH	European Union	008964447	December 22, 2010	1, 5, 42, 44
BIONTECH	European Union	016241465	November 9, 2017	1, 5, 9, 10, 16, 31, 41, 42, 44
	International	1478253	April 5, 2019	1, 5, 42, 44
	International	1370266	July 10, 2017	1, 5, 16, 31, 42, 44
	United States of America	5712036	April 2, 2019	1, 5, 16, 31, 42, 44

In addition, Complainant is the registrant of several domain names that incorporate Complainant’s Mark. These domain names include:

- (a) <biontech.com>, registered on May 29, 1998;
- (b) <biontech.de>, registered on October 10, 2007;
- (c) <biontech.info>, registered on February 27, 2009;
- (d) <biontech.net>, registered on February 27, 2009;
- (e) <biontech.us>, registered on May 8, 2019;
- (f) <biontech-covid19.com>, registered on June 5, 2020; and
- (g) <biontechglobal.com>, registered on April 20, 2020.

According to the publicly available WhoIs, the Domain Name was registered on November 30, 2023, and redirects to a “dan.com” parking page where the Domain Name is offered for sale.

5. Parties’ Contentions

A. Complainant

Complainant submits that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant contends that the Domain Name is confusingly similar to Complainant's Mark as it incorporates Complainant's Mark in its entirety with the addition of the generic term "AI", which is an abbreviation for "artificial intelligence". Complainant states that the use of the term "AI" is highly relevant to Complainant and its activities as it actively uses artificial intelligence for drug discovery and development of next-generation immunotherapies and vaccines to address diseases.

Although Complainant was established in 2008, Complainant contends that given its extensive presence in the media during the COVID-19 pandemic (January 2020 – May 2023) and recognition of its vaccine, Complainant's Mark gained global well-known status within a short period of time.

Complainant submits that Respondent is not affiliated with Complainant and has not been authorized to use and register Complainant's Mark including registration of any domain name incorporating said Mark.

Complainant contends that Respondent has no rights or legitimate interests in the Domain Name and argues that the Respondent has registered it in bad faith with the likelihood of trying to benefit from the fame of Complainant's Mark.

B. Respondent

Respondent did not reply to Complainant's contentions. After the notification of Respondent's default email on February 14, 2024, Respondent sent two email communications to the Center: "Advice from a friend, just you're losing energy and time because I don't understand anything you're sending me" and "Hello, I don't understand anything. Sincerely".

6. Discussion and Findings

A. Identical or Confusingly Similar

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 Complainant's Mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Complainant has shown rights in Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The whole of the BIONTECH mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Domain Name also contains the letters "ai" which, as Complainant notes, is the common abbreviation for "artificial intelligence". While the addition of other letters or terms to a domain name may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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

Although 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 difficult 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 shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). 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](#) 3.0, section 2.1.

In the present case, the Panel is satisfied that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Further, the Panel considers that Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

In particular, Complainant asserts that there is no evidence that Respondent has been using the Domain Names for a bona fide offering of goods or services. Instead, Complainant submits that Respondent is seeking to benefit from the fame of Complainant’s Mark. In the absence of any attempt to refute this allegation, or provide evidence demonstrating rights or legitimate interests in the Domain Name, the Panel accepts this submission.

The Panel finds the second element of the Policy has been established.

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.

Complainant submits it is well-known and that Complainant’s Mark is widely known around the world, being one of the few companies that developed a vaccine to treat COVID-19 infections.

In the present case, the Panel is satisfied that the registration of the Domain Name allows the inference to be drawn that this was done in order to benefit in some manner from the fame of Complainant’s Mark, as Complainant alleges.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of Complainant’s Mark, and the composition of the Domain Name and is satisfied that in the circumstances of this case the Domain Name has been registered to attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant’s trade mark. The Panel is satisfied that the circumstances indicate that the Domain Name was registered and used in bad faith, particularly in the absence of any submission or evidence to the contrary.

The Panel finds that Complainant has established 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 Domain Name <biontechai.com> be transferred to Complainant.

/Clive L. Elliott, K.C./

Clive L. Elliott, K.C.

Sole Panelist

Date: March 21, 2024