

## **ADMINISTRATIVE PANEL DECISION**

### **STADA Arzneimittel AG v. Chris Wooslay**

### **Case No. D2024-0443**

#### **1. The Parties**

The Complainant is STADA Arzneimittel AG, Germany, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America (“United States”).

The Respondent is Chris Wooslay, United States.

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

The disputed domain name <stada-de.com> is registered with NameSilo, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2024. On January 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2024, 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, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2024, 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 February 5, 2024.

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 February 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on March 11, 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 manufacturer of pharmaceuticals since more than 125 years. The Complainant owns trademark registrations for STADA such as:

- German trademark registration No. 656,708, registered on April 27, 1954.
- German trademark registration No. 662,147, registered on September 3, 1954.
- International trademark registration No. 562,225, registered on December 7, 1990.

The Complainant owns the domain name <stada.com>, registered on December 13, 1999, as well as the domain name <stada.de>.

The disputed domain name was registered on January 26, 2024, and resolves to a parking page with Pay-Per-Click ("PPC") links for products and services in the medical field. The Respondent has also used the disputed domain name to send an email impersonating an employee of the Complainant.

#### **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 identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the Complainant's trademark in its entirety. The use of the generic Top-Level-Domain ("gTLD") ".com" is not relevant as it is a standard registration requirement. The country code ".de" is irrelevant for the purposes of confusing similarity so is the use of a hyphen.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant or licensed to use its trademark in any manner. There is no bona fide use of the disputed domain name as it is being used for phishing scam and for PPC links related to the Complainant's services. The Respondent is not commonly known by the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

The Respondent must have been aware of the Complainant's trademark as it is well-known. This is a case of opportunistic bad faith. The Respondent has established MX records for the disputed domain name and has sent a phishing email. The Respondent is using the disputed domain name for a monetized parking page.

##### **B. Respondent**

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

## **6. Discussion and Findings**

### **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 shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "de", 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 disputed domain name and the 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 the 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 of production on this element 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](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, phishing and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the disputed domain name incorporates the Complainant's registered trademark STADA in its entirety. Further, the disputed domain name resolves to a page with PPC links for medical products and services. Therefore, the Panel finds that the Respondent knew or should have known of the Complainant at the time of registration of the disputed domain name.

[WIPO Overview 3.0](#), section 3.2.2. By using the disputed domain name for a website with PPC links, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location by creating a likelihood of confusion with the Complainant's mark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy. Additionally, the Respondent is attempting to pass off as the Complainant through sending an email to the latter's business partner.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Furthermore, Panels have held that the use of a domain name for illegal activity here, , phishing and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 disputed domain name <stada-de.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: March 12, 2024