

ADMINISTRATIVE PANEL DECISION

Neurocrine Biosciences, Inc. v. Name Redacted
Case No. D2024-1130

1. The Parties

The Complainant is Neurocrine Biosciences, Inc., United States of America, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America.

The Respondent is Name Redacted. ¹

2. The Domain Name and Registrar

The disputed domain name <nuerocrine.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2024. On March 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 2024, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (CONTACT PRIVACY INC.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 19, 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 amended Complaint on March 19, 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”).

¹The Respondent appears to have used the name and/or contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 19, 2024.

The Center appointed Phillip V. Marano as the sole panelist in this matter on April 26, 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 is a pharmaceutical company that was founded in 1992 and focuses on discovering and developing treatments for various diseases and disorders. Complainant offers information about itself and the pharmaceutical treatments it develops through its official <neurocrine.com> domain name and website. Complainant owns valid and subsisting registrations for the NEUROCRINE trademark in numerous countries, including the trademark for NEUROCRINE (Reg. No. 5762522) in the United States, registered on May 28, 2019, with the earliest use dating back to January 1995.

Respondent registered the disputed domain name on December 26, 2023. At the time this Complaint was filed, the disputed domain name did not resolve to any website content, but it was used to perpetrate a fraudulent email impersonation scam whereby Respondent posed as an employee of Complainant to purchase laptop computers in Complainant's name.

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 asserts ownership of the NEUROCRINE trademark and has adduced evidence of trademark registrations in numerous countries around the world including the United States, with priority dating back to January 1995. The disputed domain name is confusingly similar to Complainant's NEUROCRINE trademark, according to Complainant, because Respondent has intentionally transposed the letter "U" with the letter "E" as an intentional misspelling and common typographical error.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on Respondent's lack of any affiliation with Complainant; lack of any license, consent or authorization from Complainant; and use in connection with a fraudulent email impersonation scam.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including the well-known nature of Complainant's NEUROCRINE trademark; Respondent's use of the disputed domain name in furtherance of its fraudulent email impersonation scam targeting Complainant's vendors and customers; Respondent's otherwise non-use or inaction with respect to the disputed domain name; and Respondent's use of false domain name registration data, wherein Respondent has misappropriated Complainant's office mailing address and telephone number, and posed as an employee of Complainant.

B. Respondent

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

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- ii. 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as prima facie evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the NEUROCRINE trademark has been registered in numerous countries with priority dating back to January 1995. Thus, the Panel finds that Complainant's rights in the NEUROCRINE trademark have been established pursuant to the first element of the Policy.

The remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's NEUROCRINE trademark. In this Complaint, the disputed domain name is confusingly similar to Complainant's NEUROCRINE trademark because, disregarding the .com generic Top-Level Domain ("gTLD"), effectively the entirety of the trademark (albeit a common typographical version) is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar..."). In regards to gTLDs, such as ".com" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

It is well established that domain names which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 ("Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ... (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersions of other terms or numbers"). See e.g., *Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) ("This is clearly a 'typosquatting' case where the disputed domain name is a slight misspelling of a registered trademark to divert internet traffic ... In fact, the domain name comprises the Complainant's trademark ... with a single misspelling of an element of the mark:

a double consonant “s” at the end.”) See e.g., *General Electric Company v. mr domains (Marcelo Ratafia)* Case No. [D2000-0594](#) (“In the Panel’s opinion ‘www-’ used in this context is a generic term which does nothing to reduce the potential for confusion, and therefore the panel is of the opinion that the Domain Names are for all intents and purposes identical to the registered trademark.”) Here, the Panel concurs with Complainant that Respondent has intentionally transposed the letters “U” and “E” of Complainant’s NEUROCRINE trademark within the disputed domain name in furtherance of Respondent’s fraudulent email impersonation scheme.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Complainant must make out a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1. As a threshold matter, it is evident from the record that Respondent, identified by registration data for the disputed domain name as an employee of Complainant, is not commonly known by the disputed domain name, or Complainant’s NEUROCRINE trademark—contrary to what Respondent has represented in the registration data or its fraudulent impersonation email scheme.

UDRP panels have categorically held that use of a domain name for illegal activity—including the impersonation of the complainant and other types of fraud—can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by Complainant asserting Respondent is engaged in such illegal activity, including that Respondent has masked its identity to avoid being contactable, or that Respondent’s website has been suspended by its hosting provider. [WIPO Overview 3.0](#), section 2.13. See e.g., *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrence*, WIPO Case No. [D2009-1017](#) (“Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives”). Here submitted copies of fraudulent emails sent by Respondent as direct and compelling evidence that Respondent registered and used the disputed domain name to perpetrate an email impersonation scheme designed to fraudulently procure laptop computers from Complainant’s vendors.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy prescribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent’s documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

UDRP panels have categorically held that registration and use of a domain name for illegal activity—including impersonation, passing off, and other types of fraud—is manifestly considered evidence of bad faith within paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), section 3.2. Use of the disputed domain name by Respondent to pretend that it is Complainant or that it is associated with Complainant “brings the case within the provisions of paragraph 4(b)(iii) of the Policy, for it shows Respondent registered the domain name primarily for the purpose of disrupting the business of a competitor, namely Complainant.” See *Edelman, Inc. v. Devteam Meetey*, WIPO Case No. [D2016-0500](#) (“The bad faith of the Respondent follows from the uncontested fact that the Respondent impersonated employees of the Complainant and even used the disputed domain name in requesting a third party to pay a large amount of money to the Respondent. This can only be seen as a very clear fraudulent behavior. Registering a domain name which is confusingly similar to the trademark of a complainant and subsequently using such domain name to impersonate employees of the Complainant in an attempt to commit fraud is a clear example of registration and use in bad faith. This Panel considers such behavior as an attempt to disrupt the business of the Complainant as well as an attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark”); *Sumitomo Dainippon Pharma Co., Ltd., Sunovion Pharmaceuticals Inc. v. Raid Benson*, WIPO Case No. [D2018-2893](#) (finding bad faith when the domain name was used to create email addresses that were used to defraud third parties by impersonating employees of the Complainants). As discussed above, Complainant has provided direct and compelling email evidence that clearly establishes Respondent's fraudulent email impersonation scheme.

The act of “typosquatting” or registering a domain name that is a common misspelling of a mark in which a party has rights has often been recognized as evidence of bad faith registration *per se*. [WIPO Overview 3.0](#), section 3.2.1 (“Particular circumstances UDRP panels take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely known mark ...”). See also *Paragon Gifts, Inc. v. Domain.Contact*, WIPO Case No. [D2004-0107](#) (citing *National Association of Professional Baseball Leagues, d/b/a Minor League Baseball v. Zuccarini*, WIPO Case No. [D2002-1011](#)); *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (finding that the practice of “typosquatting”, of itself, is evidence of the bad faith registration of a domain name). The Panel concurs with this approach, as it is particularly applicable in the case of typosquatting in furtherance of illegal activity. It is evident that Respondent has typosquatted to impersonate the Complainant and perpetrate fraud via email correspondence with Complainant's vendors.

Furthermore, the use of false registration data in connection with a disputed domain name also supports a finding of bad faith registration and use by Respondent. See e.g., *Action Instruments, Inc. v. Technology Associates*, WIPO Case No. [D2003-0024](#) (Providing false contact information violates paragraph 2 of the Policy, which requires a registrant to represent that the statements it “made in [its] Registration Agreement are complete and accurate.” Maintaining that false contact information in the WHOIS records (which can easily be updated at any time) after registration constitutes bad faith use of the domain name because it prevents a putative complainant from identifying the registrant and investigating the legitimacy of the registration.”); *Royal Bank of Scotland Group v. Stealth Commerce*, WIPO Case No. [D2002-0155](#); *Home Director, Inc. v. HomeDirector*, WIPO Case No. [D2000-0111](#). To this end, Complainant has offered equally direct and compelling evidence that Respondent intentionally misappropriated as registration data the Complainant's office address and telephone number, as well as posed as an employee of Complainant.

In view of the foregoing, the Panel concludes 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 disputed domain name <nuerocrine.com> be transferred to the Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: May 30, 2024