

ADMINISTRATIVE PANEL DECISION

Neurocrine Biosciences, Inc. v. Jessica Lamb
Case No. D2024-1131

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 Jessica Lamb, United States of America.

2. The Domain Name and Registrar

The disputed domain name <neurocrinecareers.com> is registered with NameCheap, Inc. (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 response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (WITHHELD FOR PRIVACY EHF) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2024.

The Center appointed Gary Saposnik as the sole panelist in this matter on April 16, 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 pharmaceutical company, registered in Delaware, with its headquarters and principal office in San Diego, California. The Complainant currently employs over 1,200 people, with its focus on discovering and developing pharmaceuticals for the treatment of various diseases and disorders. The Complainant has been developing medical treatments under the name NEUROCRINE since it was founded in 1992. Its portfolio includes treatments for tardive dyskinesia and chorea associated with Huntington's disease. The Complainant has also worked with other pharmaceutical companies to produce landmark treatments, including treatments for endometriosis and uterine fibroids.

The Complainant is the owner of various registered NEUROCRINE trademarks, including the following:

- United States Patent and Trademark Office Trademark Registration No. 5762522, registered May 28, 2019, for research and development services in the fields of pharmaceuticals and biotechnology in Class 42.
- United States Patent and Trademark Office Trademark Registration No. 7093757, registered June 27, 2023, for various pharmaceutical goods in Class 5.
- China Registration No. 43967361, registered May 21, 2021, for NEUROCRINE BIOSCIENCES figurative mark in Class 5
- China Registration No. 43967362, registered June 28, 2021, for NEUROCRINE BIOSCIENCES figurative mark in Class 42.

The Complainant also has a number of other trademark registrations for NEUROCRINE or NEUROCRINE BIOSCIENCES throughout the world.

The Complainant operates its corporate website at "www.neurocrine.com", which includes a Careers section, and was created on April 19, 1994.

The Respondent registered the disputed domain name on January 17, 2024. There is currently no active website associated with the disputed domain name. However, the disputed domain name has been configured for use with email. Emails from "[...].@neurocrinecareers.com" are fraudulently being sent to potential job applicants offering them employment in a "remote administrative position", a job opening that does not exist.

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 contains its NEUROCRINE trademark in its entirety. The Respondent merely added the additional non-distinctive term "careers", which does not alleviate any confusion between the disputed domain name and the Complainant's trademark.

The Complainant's adoption and extensive use of the NEUROCRINE trademark predates the Respondent's registration of the domain name. The Respondent has no connection or affiliation with the Complainant, and has not received any license or consent, express or implied, to use the Complainant's trademarks in domain names or in any manner.

The Respondent's only use of the domain name is in connection with an email server used to send emails in connection with a fraudulent employee recruitment scam. Such use demonstrates neither a bona fide offering of goods or services nor a legitimate interest.

The Complainant's NEUROCRINE trademark is well known within the industry and has widespread recognition. It is therefore inconceivable that the Respondent was unaware of the NEUROCRINE mark when it registered the disputed domain name. The fact that the Respondent used the disputed domain name to impersonate one of the Complainant's employees makes clear that the Respondent was aware of the Complainant and its rights in the NEUROCRINE trademark and represents opportunistic bad faith in registering the domain name. The Respondent has exploited the Complainant's goodwill for financial gain by perpetrating fraud, which demonstrates the Respondent's bad faith. The Complainant states that the Respondent's activity is in direct violation of paragraph 4(b)(iv) of the Policy, which prohibits use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion as to source, sponsorship, affiliation or endorsement of the site.

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 in its entirety 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, "careers", 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, claimed as applicable to this case: impersonation/passing off as the Complainant's Careers department, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Complainant has provided evidence of use of the disputed domain name in emails to prospective employees for career positions with the Complainant that do not exist. This impersonation and passing off of the Complainant cannot be considered as conferring any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

The Panel finds that the Respondent registered and is using the disputed domain name 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 Respondent registered the disputed domain name many years after the Complainant obtained trademark rights. The Respondent's use of the domain name in emails to potential candidates for careers at the Complainant is evidence that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Complainant also provided evidence of actual confusion by career candidates who inquired as to whether the emails offering employment with the Complainant were legitimate. The Respondent has not replied to the Complaint, and there is no plausible explanation that the Respondent could provide for any good faith use of the disputed domain name. The addition of the term "careers" indicates that it is probable that the Respondent intended to falsely promote any future associated website as fake resources for securing employment with the Complainant. See i.e., *American Airlines, Inc. v. Selina Day*, WIPO Case No. D2023-2463. This intentional false association was carried out instead through use of the disputed domain name in fraudulent emails to job candidates.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the Complainant's NEUROCRINE mark is distinctive, with the additional term "careers" adding a reference to a department of Complainant, as also shown on Complainant's website, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: impersonation/passing off as the Complainant's Careers department, 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 <neurocrinecareers.com> be transferred to the Complainant.

/Gary Saposnik/

Gary Saposnik

Sole Panelist

Date: April 30, 2024