

## **ADMINISTRATIVE PANEL DECISION**

**Bostik SA v. MUKWEVO DANIEL**

**Case No. D2024-2426**

### **1. The Parties**

The Complainant is Bostik SA, France, represented by In Concreto, France.

The Respondent is MUKWEVO DANIEL, Uganda.

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

The disputed domain name <bostikltd.com> is registered with Network Solutions, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2024. On June 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 17, 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 (Anonymized, Statutory Masking Enabled) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 18, 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 June 21, 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 June 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2024.

The Center appointed Indrek Eelmets as the sole panelist in this matter on July 31, 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 French company operating since 1985. The Complainant is one of the largest adhesive and sealant companies in the world, employing around 5,000 people in 50 countries across five continents. In the United Kingdom, the Complainant's subsidiary is named Bostik Ltd.

The Complainant is the owner of several trademark registrations for BOSTIK in many countries around the world, e.g.:

- International Trademark Registration BOSTIK, No. 1592858, registration date March 1, 2021, in classes 1, 16, 17 and 19 and designating 11 countries including Algeria, Turkmenistan, Kazakhstan;
- International Trademark Registration  , No. 1190940, registration date July 22, 2013, in classes 1, 7, 16, 17 and 19 and designating numerous countries including the United Kingdom, Switzerland, Finland;
- International Trademark Registration  , No. 851632, registration date February 3, 2005, in classes 1, 2, 3, 16, 17 and 19 and designating numerous countries including United Kingdom, Japan.

The Complainant operates the domain name <bostik.com> which was registered on February 5, 1996.

The disputed domain name was registered on May 20, 2024. At the time this Complaint was submitted the disputed domain name did not resolve to an active 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 earlier trademark since it consists of the BOSTIK trademark and the non-distinctive acronym "ltd", which is not sufficient to produce a different impression for the Internet user.

Further, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name and relies on the following:

- The Respondent appears not to be commonly known through the disputed domain name. Google research on the denomination "bostik ltd" only includes results linked to the Complainant.
- There is no public information demonstrating a legitimate use of the sign "bostik ltd" by the Respondent.
- The Complainant has not authorized, licensed, or permitted the Respondent to use any of its trademarks or domain name, or to apply for or use any domain name incorporating Complainant's trademarks.
- The disputed domain name is inactive. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services or made serious preparation for that purpose and that the Respondent is not making a legitimate noncommercial or fair use of the domain name.

Finally, the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith because:

- The reservation of a domain name confusingly similar to a trademark in which the Complainant has rights while the Respondent has no right in the disputed domain name nor legitimate interests in this respect and without authorization, demonstrates in itself that the Respondent is acting in bad faith.
- BOSTIK is highly distinctive denomination, not a descriptive or commonly used term. It is thus very unlikely the Respondent chose the disputed domain name without any knowledge of the trademarks or company names of the Complainant;
- The Respondent is engaged in “passive holding” of the disputed domain name. Therefore it is possible to conclude that in some way the Respondent hoped to capitalize on the reputation of the Complainant.

## **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 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.

The Panel finds that the addition of the term “ltd” 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.

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.

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 (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trademark, and the composition of the disputed domain name, 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.

In the present case, given the Complainant's numerous trademark registrations for, and its worldwide use of the trademark BOSTIK, the Panel finds it highly unlikely that the Respondent registered the disputed domain name without prior knowledge of the Complainant's mark.

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 <bostikltd.com> be transferred to the Complainant.

*/Indrek Eelmets/*

**Indrek Eelmets**

Sole Panelist

Date: August 14, 2024