

ADMINISTRATIVE PANEL DECISION

VDA Verband der Automobilindustrie e.V. v. iasoft group
Case No. D2024-2619

1. The Parties

The Complainant is VDA Verband der Automobilindustrie e.V., Germany, represented by Kroher Strobel Rechts- und Patentanwälte PartmbB, Germany.

The Respondent is iasoft group, Peru.

2. The Domain Name and Registrar

The disputed domain name <bionoxadblue.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 (BIONOX ADBLUE) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 July 2, 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 July 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2024. The Respondent did not submit any formal response. The Respondent sent a communication on July 22, 2024. On July 24, 2024, the Center notified the Parties of the commencement of Panel appointment process.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on July 30, 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 an automotive industry group organized as a registered association (*‘eingetragener Verein’*) under German law with headquarters in Germany, representing the interests of member companies that manufacture automobiles and automobile components. ADBLUE is a mark used for chemical products that employ urea to reduce nitric oxide and nitrogen dioxide (“NOX”) atmospheric pollutants from vehicle emissions. The Complainant holds numerous ADBLUE trademark registrations and has established a licensing system for companies that manufacture and supply urea for this purpose. These include the following registrations:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	GOODS OR SERVICES
ADBLUE (word)	International (WIPO)	811899	August 8, 2003	IC 1; chemicals
ADBLUE (word)	European Union	003945938	February 6, 2006	IC 1, 4, 12, 37, 42; chemicals, fuels, vehicles, building and repair services, scientific and technological services, etc.
ADBLUE (word)	European Union	008526717	March 8, 2010	IC 6, 7, 9, 20, 35, and 42; packaging, transport, and storage containers, exhaust gas treatment installations, dispensing installations for fuel additives, advertising, scientific and technological services, etc.
ADBLUE (word)	International (WIPO)	1042880	May 18, 2010	IC 7, 9, 12, and 39; machines, engines, automobiles, transport, packaging, etc.

ADBLUE is described in articles on the Complainant’s website (in German and English) at “www.vda.de”. Previous UDRP panels have found that the Complainant’s ADBLUE trademark, which is registered in some 40 jurisdictions and licensed globally, is a well-known mark. See, *Verband der Automobilindustrie e.V. v. Andrew Booth, ECUFLASH Ltd.*, WIPO Case No. [D2017-0117](#). The Complaint attaches a publication on ADBLUE, a trademark list, and a list of official licensees.

The Registrar reports that the disputed domain name was created on September 4, 2019, and was registered in the name of the Respondent iasoft group of Arequipa, Peru, listing a Hotmail email address for its contact email.

At the time of this Decision, the disputed domain name does not resolve to an active website. However, the Complaint attaches a screenshot of the website formerly associated with the disputed domain name (the “Respondent’s former website”). This English-language website was headed “Bionox Adblue” and advertised “automotive urea” from a Latin American laboratory ostensibly certified by “VDA” (the Complainant). The Respondent’s former website displayed the Complainant’s ADBLUE mark with a circle “R” trademark registration symbol.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a cancellation of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its registered ADBLUE mark, adding nondistinctive text, and that the Respondent is not licensed to use the mark and has no connection with the Complainant. The Complainant observes that the Respondent could readily identify its goods without using the Complainant’s mark, such as by using the terms “urea solution” or “DEF” (for “diesel exhaust fluid”). The Complainant concludes that the Respondent registered and used the Complainant’s mark in the disputed domain name (as on its website) only to exploit the widespread and longstanding recognition of the Complainant’s mark for commercial gain.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions. However, the Respondent sent an email communication to the Center on July 22, 2024, stating that “I’m not the user finally domain bionoxadblue.com in Perú. Today, his domain and website is inactive and I don’t have any relation and contract with them. You can contact direct the entreprise in Perú”. While the Panel notes that the Respondent seems to claim that the disputed domain name was registered for a third party, the Respondent did not provide any explanation nor evidence on why the disputed domain name was registered in its own name. The Panel will consider the Registrar-confirmed registrant of the disputed domain name (i.e.: “iasoft group”) as the Respondent. The Panel further notes that references to the registration and use by the Respondent shall be construed to include the final holder of the disputed domain name (if there is any different to the Respondent).

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 (the registered ADBLUE word 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, "bionox") may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Respondent's former website clearly implied that the Respondent was certified by the Complainant to manufacture and supply ADBLUE automotive urea products ("for the reduction of NOx emissions in vehicles"), and this is consistent with the nature of the disputed domain name, which creates a risk of implied affiliation with the Complainant. However, the Complainant denies any such connection with the Respondent, and the Respondent has not come forward with any evidence or arguments to demonstrate licensing rights or other legitimate interests in the ADBLUE name.

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 Respondent was clearly aware of the Complainant and its ADBLUE mark, as the Respondent's former website displayed the Complainant's mark with a trademark registration symbol and falsely claimed that the Respondent was certified by the Complainant. The Respondent's former website advertised automotive urea products for sale of the type sold by the Complainant's members and licensees under the Complainant's registered mark. Thus, the Respondent's conduct falls squarely within the example of bad faith described in the Policy, paragraph 4(b)(iv), intentionally attempting to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's mark. The terms added to the mark in the disputed domain name, "bionox", do not avoid confusion, as urea is a biological product and "NOX" is the common abbreviation for the pollutants that urea is designed to remove from vehicle emissions. Thus, the disputed domain name has the appearance of being relevant to the Complainant's mark, and the Respondent's former website marketed a competing product. This was indeed a classic instance of bad-faith registration and use of a confusingly similar domain name to misdirect Internet users for commercial gain.

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 <bionoxadblue.com> be cancelled.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: August 13, 2024.