

## **ADMINISTRATIVE PANEL DECISION**

Sipchem Europe S.A. v. Sichem AG, vanBaerle Management AG  
Case No. D2024-2888

### **1. The Parties**

The Complainant is Sipchem Europe S.A., Switzerland, represented by Watson Farley & Williams (Middle East) LLP, United Arab Emirates.

The Respondent is vanBaerle Management AG, Switzerland, represented by BOHEST AG, Switzerland.

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

The disputed domain name <sichem.com> is registered with Ascio Technologies Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Sichem AG) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 17, 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Response was filed with the Center on August 7, 2024.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on August 27, 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 and its parent company, the Saudi International Petrochemical Company (Sipchem, which was founded in 1999 and has around 1,400 employees), are active in the production and marketing of petrochemical products.

The Complainant is the owner of the International Trademark SIPCHEM (Reg. No. 1470136; registered on April 18, 2019).<sup>1</sup>

The disputed domain name was first registered on August 7, 2005, and purchased by the Respondent in March 2024. At the time of filing of the Complaint, the disputed domain name resolved to a website of the company Sichem AG, marketing the business of Organo Mineral Binder (“OMB”), a binder system for biocide-free industrial paints.

#### 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 it had been subject to a series of attempted cyber scams and, on or around June 5, 2024, its cybersecurity team were alerted of the disputed domain name.

The Complainant alleges that the disputed domain name is confusingly similar to the Complainant’s domain name <sipchem.com>, with the only distinction being that the Respondent has omitted the letter “p” from the disputed domain name. In the Complainant’s view, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s business.

##### B. Respondent

The Respondent contends that the Complainant has not satisfied any of the elements required under the Policy for a transfer of the disputed domain name and contends the following:

The Respondent (vanBaerle Management AG) used to be owned by a privately held group of companies with a company history of more than 130 years. Due to the sale of one business unit in January 2024, it was decided to set up a new operating company for the OMB business unit. Since one of the family members had already owned a holding company with the name Sichem Holding AG since 1995, it was decided to rename the existing vanBaerle Silicates Holding AG to Sichem AG. The Respondent purchased the disputed domain name in March 2024 for a substantial sum.

The omission of a single letter in a disputed domain name is often enough to avoid confusing similarity, especially when the omission results not in a simple misspelling of a complainant’s alleged trademark but another word with an entirely different meaning.

At the time of the acquisition of the disputed domain name, neither the Complainant nor the trademark SIPCHEM were known to the Respondent. In addition, while the parties’ products are both based in the chemical industry, the Complainant’s petrochemical products are clearly different from the Respondent’s (biocide-free industrial paints). OMB is a novelty developed in 2021 by a group company of the Respondent.

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<sup>1</sup>As noted by the Respondent, a search for this trademark on WIPO’s Madrid Monitor tool shows that the mark in question is registered in the name of “SIPCHEM InnoVent SA” (Annex 2 of the Response). While this is a different company to that of the Complainant, the Panel finds that the Complainant is more likely than not related to SIPCHEM InnoVent SA.

It should also be noted that the letter sequence “chem” contained in the Complainant’s SIPCHEM trademark can hardly be considered particularly distinctive for the goods covered by that trademark. Accordingly, the Complainant’s trademark appears to be rather weak.

Finally, since the Complaint (in the Respondent’s view) was brought primarily to harass the Respondent as the domain name holder, the Panel is requested to declare a finding of reverse domain name hijacking (“RDNH”).

## **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 Panel finds the Complainant’s trademark SIPCHEM is recognizable within the disputed domain name. While an intentional misspelling of the Complainant’s trademark by the Respondent seems unlikely under the circumstances of this case, it is conceivable that the average Internet user could recognize the Complainant’s trademark SIPCHEM in the disputed domain name (<sichem.com>) by overlooking the missing letter “p”. Accordingly, the disputed domain name is confusingly similar to the Complainant’s trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

### **B. Rights or Legitimate Interests**

The Panel finds that, before notice to the Respondent of the dispute, the Respondent used the disputed domain name in connection with a bona fide offering of goods. [WIPO Overview 3.0](#), section 2.2.

As set out above, the Respondent has proven that a company operated by one of the Respondent’s owners had registered the company name “Sichem Holding AG” in 1995 (more than 20 years before the Complainant’s SIPCHEM trademark was registered in 2019) and that the Respondent had purchased the disputed domain name in March 2024 for one of its business units.

The Panel therefore finds the second element of the Policy has not been established.

### **C. Registered and Used in Bad Faith**

Moreover, the evidence in the case file as presented does not indicate that the Respondent’s aim in registering the disputed domain name was to profit from or exploit the Complainant’s trademark.

It appears plausible that the Respondent did not know about the Complainant or its trademark when it purchased the disputed domain name in March 2024 (a domain name that had already been registered in 2005, 14 years before the Complainant registered its trademark in 2019).

The Panel thus finds the third element of the Policy has also not been established.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at RDNH or to harass the domain name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH. [WIPO Overview 3.0](#), section 4.16.

In the present case, a look at the website connected with the disputed domain name could have indicated that the Respondent was running a legitimate business (in a distinct and separate field of the chemical industry) without targeting the Complainant. A check of the Commercial Registry at the Respondent's domicile would have revealed that the company "Sichem Holding AG" had been registered since 1995, four years before the Complainant was established in 1999 and long before the SIPCHEM trademark was registered in 2016.

Against this background, the Panel finds that the Complainant has engaged in an attempt of RDNH.

#### **7. Decision**

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at RDNH.

*/Tobias Zuberbühler/*

**Tobias Zuberbühler**

Sole Panelist

Date: September 10, 2024