

ADMINISTRATIVE PANEL DECISION

BioNTech SE v. Name Redacted

Case No. D2024-3484

1. The Parties

The Complainant is BioNTech SE, Germany, represented by MSA IP – Milojevic, Sekulic and Associates, Serbia.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain names are <bio-n-technology.com> (the “First disputed domain name”), <bio-n-technologies.com> (the “Second disputed domain name”), and <biontechnology.net> (the “Third disputed domain name”) and are 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 August 27, 2024. On August 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the First disputed domain name. On August 28, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 the First Amended Complaint on September 3, 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

¹ The Respondent appears to have used the name of the Complainant’s former employee when registering the disputed domain names. In light of the potential identity theft, the Panel has redacted the 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 names, 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

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 September 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2024.

On September 5, 2024, the Complainant requested the addition of the Second and Third disputed domain names to the Complaint, submitting a Second Amended Complaint. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Second and Third disputed domain names. On September 9, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on October 2, 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.

On October 8, 2024, the Panel issued the Procedural Order accepting the addition of the Second and Third disputed domain names and informing the registrant and contact information for the Second and Third disputed domain names disclosed by the Registrar, inviting the Complainant to provide an amended Complaint including such information and submitting further arguments considering the Registrar-disclosed registrant information for the Second and Third disputed domain names by October 13, 2024, and the Respondent to comment on the Complainant’s submissions and/or to file a Response in respect of the Second and Third disputed domain names by October 21, 2024.

The Complainant submitted the Third Amended Complaint on October 9, 2024. No response or comment was submitted by the Respondent.

4. Factual Background

The Complainant was founded in 2008 as a biotechnology company dedicated to the development of novel therapies for cancer and other diseases, including individualized immunotherapy, as well as vaccines for infectious diseases, having collaborated with Pfizer to develop a successful vaccine in media known as the BioNTech/Pfizer (or Pfizer/BioNTech) Covid-19 vaccine.

The Complainant is the owner of the following, amongst other, trademark registrations:

- European Union Trademark Registration No. 008964447, for the word mark BIONTECH, registered on December 22, 2010, duly renewed, in classes 1, 5, 42 and 44;
- European Union Trademark Registration No. 016241465, for the word mark BIONTECH, registered on November 9, 2017, in classes 1, 5, 9, 10, 16, 31, 41, 42 and 44;
- International Registration No. 1478253, for the word and device mark BIONTECH, registered on April 5, 2019, in classes 1, 5, 42 and 44;
- International Registration No. 1370266, for the word mark BIONTECH, registered on July 10, 2017, in classes 1, 5, 16, 31, 42 and 44; and
- United States of America Trademark Registration No. 5712036, for the word mark BIONTECH, registered on April 2, 2019, in classes 1, 5, 16, 31, 42 and 44.

The First disputed domain name was registered on July 14, 2024. The First disputed domain name was used in connection with a phishing attack impersonating an employee of the Complainant in a fraudulent hiring process and present non-existent job offers for work at the Complainant (Annex 4 to the Complaint).

Presently, it resolves to a parked webpage stating “We're under construction. Please check back for an update soon.”.

The Second disputed domain name was registered on July 28, 2024. Presently, it does not resolve to an active webpage.

The Third disputed domain name was registered on August 15, 2024. Presently, it does not resolve to an active webpage.

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 that given the Complainant's extensive presence in media during the COVID-19 pandemic (January 2020 – May 2023) and recognition of its vaccine, the Complainant's BIONTECH trademark has gained well-known status within a short period of time, having a number of prior panels in domain name disputes recognized the well-known character of the BIONTECH trademark (see, for example, *BioNTech SE v. Anonymize, Inc. / Wang Liqun*, WIPO Case No. [D2022-3413](#); *BioNTech SE v. Sandra Eggers*, WIPO Case No. [D2022-4905](#)).

The Complainant further indicates that email servers (MX Records) are configured on the First disputed domain name (Annex 3 to the Complaint) and has been notified of an actual phishing attack.

The Complainant contends that the disputed domain names are confusingly similar to the Complainant's well-known trademark BIONTECH, as they fully incorporate the BIONTECH trademark, with the addition of hyphens added before and after the letter “n”, with the addition of “nology” or “nologies” which cannot prevent a finding of confusing similarity between the disputed domain names and the Complainant's BIONTECH trademark.

As to the lack of rights or legitimate interests in the disputed domain names, the Complainant asserts that: the Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use and register its trademark or to seek registration of any domain name incorporating said mark; also not having the Respondent demonstrated use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, rather having the First disputed domain name been used in connection with a fraudulent hiring process and present non-existent job offers for work at the Complainant's company impersonating two of the Complainant's employees.

Lastly, the Complainant states that it would be implausible that the Respondent was unaware of the Complainant when registering the disputed domain names given the impersonation of the Complainant and phishing scheme perpetrated by the Respondent using the First disputed domain name. The Complainant argues that the passive holding of the Second and Third disputed domain names does not prevent a finding of confusing similarity.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain names.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

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 Complainant's BIONTECH mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark 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

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a prima facie case against the Respondent.

In that sense, the Complainant indeed states that it has not authorized the Respondent to use or register the disputed domain names, not having the Respondent any connection or affiliation with the Complainant, as well as not having the Respondent received any license or consent, express or implied, to use the Complainant's trademark in a domain name or in any other manner.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain names or the absence of any trademarks registered by the Respondent corresponding to the disputed domain names, corroborates with the indication of the absence of a right or legitimate interest in the disputed domain names.

Panels have held that the use of a domain name for illegal activity (phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain names.

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.

The registration and use of the disputed domain names in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain names;
- (ii) the use of the First disputed domain name in connection with a phishing scheme impersonating the Complainant;
- (iii) considering the well-known status of the Complainant's trademark, the nature of the disputed domain names (reproducing the entirety of the Complainant's trademark), and the Respondent's intention of unduly profiting from the value in the Complainant's trademark, suggests rather a clear indication of the Respondent's registration and holding of the disputed domain names in bad faith, with implausibility of any good faith use to which the disputed domain name may be put; and
- (iv) the present inactive use of the disputed domain names;
- (v) The Respondent used the name of the Complainant's former employee when registering the disputed domain names.

For the reasons as those stated above, the Panel finds that the disputed domain names were registered and are being used in bad faith pursuant to paragraph 4(b)(i) of 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 names, <bio-n-technology.com>, <bio-n-technologies.com> and <bionotechnology.net>, be transferred to the Complainant.

/Wilson Pinheiro Jabur /

Wilson Pinheiro Jabur

Sole Panelist

Date: October 22, 2024