

ADMINISTRATIVE PANEL DECISION

Raffinerie Tirlemontoise S.A., en néerlandais Tiense Suikerraffinaderij N.V. v.
Diego Alvarez, Mei Wang and Justin
Case No. D2024-3515

1. The Parties

The Complainant is Raffinerie Tirlemontoise S.A., en néerlandais Tiense Suikerraffinaderij N.V., Belgium, represented by Gevers Legal NV, Belgium.

The Respondents are Diego Alvarez, United States of America, Mei Wang, China, and Justin, United States of America.

2. The Domain Names and Registrars

The disputed domain names <beneo.online> and <beneo.xyz> are registered with Dynadot Inc (the “Registrar”).

The disputed domain name <beneo.org> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2024. On August 29, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 29, 2024, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (SUPER PRIVACY SERVICE LTD C/O DYNADOT and REDACTED FOR PRIVACY) and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 3, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on September 6, 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 Respondents of the Complaint, and the proceedings commenced on September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondent’s default on October 1, 2024.

The Center appointed Andrea Mondini as the sole panelist in this matter on October 4, 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 Belgian company founded in 1836. Since 1989 it is an affiliate of the German company Südzucker AG, a major sugar producer with around 20,000 employees and numerous subsidiaries worldwide, including the Complainant, the German company Beneo GmbH and its Belgian subsidiary Beneo-Orafti SA. The Complainant and Beneo GmbH are thus affiliated companies, hence the Complainant is the owner of the BENEEO trademark.

The Complainant owns numerous trademark registrations in several jurisdictions, including:

TRADEMARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	INTERNATIONAL CLASS
BENEEO	Benelux	758132	December 10, 2004	5, 29, 30 and 31
BENEEO	European Union	016423006	August 4, 2017	11, 30 and 35

The Complainant’s group holds the domain name <beneo.com> which hosts its website.

Because the Respondents did not file a Response, not much is known about the Respondents.

The disputed domain name <beneo.xyz> was registered on November 28, 2023. The disputed domain names <beneo.online> and <beneo.org> were registered on December 7, 2023.

According to the evidence submitted with the Complaint, the disputed domain names are redirected to a domain name selling platform where the disputed domain names <beneo.online> and <beneo.xyz> are offered for sale at USD 1,450 and <beneo.org> is offered for sale at USD 1,950.

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 names.

Notably, the Complainant contends as follows:

The disputed domain names are identical to the trademark in which the Complainant has rights, because they incorporate this trademark in its entirety and the addition of the generic Top-Level Domains (“gTLD”) may be disregarded under the confusing similarity test because it is a standard registration requirement.

The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Respondents have not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain names, and there is no evidence of the Respondents’ use, or demonstrable preparation to use, the disputed domain names in connection with a bona fide offering of goods and services.

The Complainant asserts that the fact that the disputed domain names are being offered for sale is not a coincidence. At the end of the year 2023, the Complainant noticed that the domain name <beneo.info> was registered by a third party and was redirecting to a domain name selling platform. On December 7, 2023, the Complainant decided to buy the <beneo.info> domain name at USD 950. The Complainant believes that the previous owner of the <beneo.info> domain name is also the owner of the disputed domain names, because two of the disputed domain names were registered on December 7, 2023, i.e. on exactly the same day when the Complainant bought the <beneo.info> domain name and all three disputed domain names are offered for sale on the same platform as the <beneo.info>. The Complainant therefore asserts that the Respondents are targeting the Complainant by repeatedly registering domain names including the BENEEO trademark in the hope of also selling them to the Complainant.

In light of these circumstances, the Respondents registered and used the disputed domain names in bad faith primarily for the purpose of selling them to the Complainant for a price in excess of the related out-of-pocket expenses.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes:

- that the disputed domain names <beneo.online> and <beneo.org> were registered on December 7, 2023, i.e. exactly on the same day when the Complainant bought the domain name <beneo.info>;
- that all disputed domain names are offered for sale on the same domain name selling platform, where the <beneo.info> domain name was previously offered for sale;
- that the disputed domain names <beneo.online> and <beneo.xyz> are offered for sale at exactly the same price (USD 1,450);
- that the Respondents used false contact details as evidenced by the inability of the courier to deliver the Center's written communication to the address disclosed by the Registrars for the Respondents.

These circumstances indicate that the disputed domain names were registered by the same registrant who used aliases to conceal his identity and that the disputed domain names are thus subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to herein as "the Respondent") in a single proceeding.

6.2. Substantive issues

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 names. 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 entirety of the mark is reproduced within the disputed domain names.

The addition of the generic Top-Level Domains ("gTLD") ".org", ".online" and ".xyz" in the respective disputed domain names is a standard registration requirement and as such may be disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

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 for a complainant to prove that 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.

Based on the available record, 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.

In the view of the Panel, it cannot be a coincidence that two of the disputed domain names were registered exactly on the day when the Complainant bought the domain name <beneo.info>. Considering the Respondent used false contact information (as evidenced by the inability of the courier to deliver the Center's written communication to the address disclosed by the Registrar for the Respondent), and further considering that all three disputed domain names are offered for sale on the same platform where <beneo.info> had been sold, and that two of the disputed domain names are offered at exactly the same price, the Panel holds that the Respondent registered the disputed domain names for the purpose of selling them to the Complainant for likely valuable consideration in excess of the out-of-pocket expenses related to the disputed domain names (paragraph 4(b)(i) of the Policy).

In the circumstances of this case, this is evidence of registration and use in bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy with regard to the disputed domain names.

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 <beneo.online>, <beneo.org> and <beneo.xyz> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: October 7, 2024