

## **ADMINISTRATIVE PANEL DECISION**

BioNTech SE v. Shalaila Bryan  
Case No. D2024-3557

### **1. The Parties**

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

The Respondent is Shalaila Bryan, United States of America (“United States”).

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

The disputed domain names <biontechstock.life> and <biontechstock.shop> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 3, 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 verified that the 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 September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 14, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on October 16, 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 biotechnology company founded in 2008 based in Germany and the developer in collaboration with Pfizer of a COVID-19 vaccine.

The Complainant is, inter alia, the owner of:

- European Union trademark registration No.008964447, for the BIONTECH (word) trademark, registered on December 22, 2010;
- International Trademark registration No. 1370266, for the BIONTECH (word) trademark, registered on July 10, 2017;
- United States Trademark registration No. 5712036, for the BIONTECH (word) trademark, registered on April 2, 2019.

The Complainant also owns a number of domain names including <biontech.com>, registered on May 29, 1998.

The disputed domain names were registered on April 29 and April 30, 2024, and resolve to parking pages, which consisted of pay-per-click ("PPC") links.

#### 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 that:

(1) The disputed domain names are confusingly similar to the BIONTECH trademark in which the Complainant has rights. The disputed domain names incorporate the Complainant's trademark BIONTECH with the addition of generic term "stock", and the ".life" and ".shop" new generic Top-Level Domains ("gTLDs"). The additional term "stock" within the disputed domain names is closely related to the Complainant's business structure, as BioNTech is a publicly traded company, with its shares available for purchase on the stock market. The addition of generic term "stock" cannot prevent the finding of confusing similarity between the disputed domain names and the Complainant's BIONTECH trademark. The gTLDs ".life" and ".shop" should be viewed as a standard registration requirement and disregarded.

(2) The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is neither commonly known by the name "biontech" nor in any way affiliated with the Complainant. The Respondent is not authorized or licensed to use BIONTECH trademark, nor to seek registration of any domain names incorporating such trademark. The disputed domain names resolve to webpages that display messages that the disputed domain names "may be for sale" and include sponsored PPC links which suggests that the Respondent does not use the disputed domain names in connection with a bona fide offering of goods or services. The Respondent appears to target the Complainant through a pattern of domain name registrations which include the BIONTECH trademark in its entirety. The Respondent also appears to be the registrant of numerous other domain names which are clearly targeting well-known trademarks of third parties.

(3) The disputed domain names were registered and are being used in bad faith. It is implausible that the Respondent was unaware of the Complainant when registering the disputed domain names. The Respondent's behavior constitutes a pattern of conduct of preventing a trademark holders from

reflecting the mark in corresponding domain names. The disputed domain names resolve to webpages that display a message that the disputed domain names “may be for sale” at the top of the page, and include sponsored PPC links, which indicates that the Respondent is using the disputed domain names to make a commercial gain by abusing the Complainant's reputation. The Respondent's primary motive in registering and using the disputed domain names was to capitalize on or otherwise take advantage of Complainant's trademark rights.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

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

The onus of proving these elements is on the Complainant even though the Respondent failed to submit a Response.

Paragraph 15(a) of the Rules directs the Panel to decide the 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 Mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant has shown rights in respect of its BIONTECH Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's Mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the term “stock” cannot prevent the finding of confusing similarity between the disputed domain names and the Complainant's BIONTECH Mark. [WIPO Overview 3.0](#), section 1.8.

The gTLDs “.life” and “.shop” in the disputed domain names should be viewed as a standard registration requirement and disregarded. [WIPO Overview 3.0](#), section 1.11.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **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.

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a prima facie case that the Respondent is not a bona fide provider of goods or services under the disputed domain names and is not making legitimate noncommercial or fair use of the disputed domain names.

The Panel notes that the Respondent is not commonly known by the disputed domain names, whereas the Complainant has prior rights in the trademarks, which precede the Respondent's registration of the disputed domain names.

The Respondent is not affiliated with the Complainant in any way. The Respondent has not been authorized by the Complainant to register or use any of the disputed domain names or to seek the registration of any domain name incorporating the BIONTECH Mark or a mark similar to the BIONTECH Mark.

There is no evidence that the Respondent has been commonly known by the disputed domain names, or at least has used or made demonstrable preparations to use the disputed domain names in connection with a legitimate noncommercial or fair use or a bona fide offering of goods and services. What is more, parked pages that comprises PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

As such, the Panel finds that the burden of production regarding this element shifts to the Respondent. [WIPO Overview 3.0](#), section 2.1.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain names. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

## **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.

As regards bad faith use, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the BIONTECH trademark when it registered the disputed domain names.

Given the Complainant's extensive presence in the media during the COVID-19 health crisis and recognition of its vaccine, the Complainant's BIONTECH Mark has undoubtedly gained a well-known status. Hence, the registration of the disputed domain names does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain names.

Therefore, owing to the repute of the BIONTECH Mark, and the substantial presence established on the Internet by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's Marks when registering the disputed domain names.

Furthermore, the Respondent appears to have already registered at least one more domain name that is targeting the Complainant's BIONTECH mark. As it has been revealed in *BioNTech SE v. 罗亮 (Liang Luo)*,

WIPO Case No. [D2024-3156](#), where the domain name in dispute was of the identical structure as the disputed domain names of this case and resolves to a PPC page with a “may be for sale” message and has configured MX records. The domain name in dispute was registered with an email address identical to the email address used by the Respondent of this case to register the disputed domain names.

As regards bad faith use, the Panel finds that the disputed domain names resolve to a website containing PPC links. The Panel is of the view that 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 mark as to the source, sponsorship, affiliation, or endorsement of that website. In accordance with paragraph 4(b)(iv) of the Policy, this shall be evidence of both the registration and use in bad faith of the disputed domain names for the purposes as set out in paragraph 4(a)(iii) of the Policy.

The Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good faith use and indeed none would seem plausible.

In light of the above, the Panel finds that the Respondent has registered and used the disputed domain names in bad faith and that the Complainant has established its case under paragraph 4(a)(iii) of the Policy.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 <biontechstock.life> and <biontechstock.shop> be transferred.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: October 25, 2024