

ADMINISTRATIVE PANEL DECISION

Celltrion Holdings Co., Ltd. v. anna mihkelson
Case No. D2024-3722

1. The Parties

The Complainant is Celltrion Holdings Co., Ltd., Republic of Korea, represented by SILKA AB, Sweden.

The Respondent is anna mihkelson, Germany.

2. The Domain Name and Registrar

The disputed domain name <celtrionhc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 the Respondent (Redacted for Privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 16, 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 amendment to the Complaint on September 16, 2024.

The Center verified that the Complaint together with the amendment to 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 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 15, 2024.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on October 21, 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, Celltrion Holdings Co., Ltd. is a biotechnology company which is mainly active in the fields of research, development, and production of biosimilar, biodrugs, and chemical drugs. Its products are distributed in over 100 countries around the world and its market capitalisation exceed KRW 40 trillion.

The Complainant owns a series of trademark registrations which consist of or contain the term "Celltrion". Most importantly, one can mention the following:

- International trademark CELLTRION (word), Reg. No. 1030013, registered on November 10, 2009, in classes 5, 35, 40, and 42. This international trademark designates a large number of jurisdictions, in particular the European Union, the United States of America, Australia, Japan, and China;
- European Union trademark CELLTRION (word and device), Reg. No. 018725435, registered on February 15, 2023, in classes 35, 40, and 42.

The Complainant registered the domain name <celltrion.com> in 2002 and uses it in connection with its website. The Complainant also registered other domain names such as <celltrionhealthcare.com> and, more particularly, <celltrionhc.com>, which is used by a subsidiary among other things as administrative email contact for the group's domain name registrations.

The disputed domain name <celtrionhc.com> was registered on July 5, 2024, and resolved to a pay-per-click ("PPC") web page.

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 the disputed domain name is confusingly similar to its CELLTRION trademarks. It stresses the fact that the disputed domain name consists of a misspelled form of the Complainant's mark, followed by "hc", and the Complainant's trademark remains clearly recognizable in the disputed domain name.

Furthermore, the Complainant states that the Respondent is not affiliated or related to it in any way, and that it did not authorize the Respondent to use the trademark in question. The Complainant also states that the Respondent is not generally known by the disputed domain name and that it has not acquired any trademark rights in it.

Lastly, the Complainant contends that the Respondent uses the disputed domain name and the website to which it redirects in a way to create confusion with the Complainant's trademark CELLTRION, and with the purpose of generating revenue by running click-through links or to redirect users to sponsored websites, which in its view constitutes bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

The Complainant holds several trademarks for CELLTRION. These trademarks are registered for various services in many jurisdictions. The trademarks put forward by the Complainant are sufficient to ground the Complaint.

Under the UDRP, the identical or confusingly similar requirement under paragraph 4(a) of the Policy typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. There is no requirement of similarity of goods and/or services (e.g., *AIB-Vincotte Belgium ASBL, AIB-Vincotte USA Inc. / Corporation Texas v. Guillermo Lozada, Jr.*, WIPO Case No. [D2005-0485](#)).

The existence of a confusing similarity within the meaning of paragraph 4(a) of the Policy is not in doubt in the present case, given that the main element in the disputed domain name, i.e. “celtrionhc”, almost entirely comprises the Complainant’s distinctive trademark CELLTRION. The incorporation of a trademark in its entirety is typically sufficient to establish that a domain name is identical or confusingly similar to a trademark (*RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. [D2010-1059](#)). Moreover, as the Complainant rightly points out, a domain name which consists of an intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9).

The element “hc” which is added to the element “celtrion” in the disputed domain name cannot prevent confusing similarity to the CELLTRION trademark.

As far as the generic Top-Level Domain (“gTLD”) “.com” is concerned, this element has a technical function and therefore does not need to be taken into account when assessing the issue of identity or confusing similarity. [WIPO Overview 3.0](#) 1.11.1.

The Panel therefore finds that paragraph 4(a)(i) 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. Rather, the evidence reflects the Respondent's use of the disputed domain name for sponsored links through which the Respondent presumably derives click-through revenue, which cannot constitute fair use.

Moreover, the composition of the disputed domain name is inherently misleading in view of the fact that the single letter omission from the Complainant's trademark is unlikely to be noticed by unsuspecting Internet users expecting to find the Complainant or its subsidiary at the disputed domain name. This is particularly so when considering that the added element "hc" stands for "healthcare", which not only designates the Complainant's field of activity, but is also contained in domain name used by the Complainant's subsidiary (namely, <celltrionhc.com>) as administrative email contact for the group's domain name registrations. Such composition cannot constitute fair use.

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

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must, in addition to the matters set out above, demonstrate that the disputed domain name has been registered and is being used in bad faith.

The undisputed prima facie evidence establishes that the Respondent is not affiliated with the Complainant and has no license or other authorisation to use the Complainant's trademark.

The Respondent registered (or acquired) the disputed domain name many years after the Complainant's trademark was in use and became known. The Panel finds that the Respondent should have known about the Complainant's trademark and business when registering or acquiring the disputed domain name. On the one hand, it is highly improbable to the Panel that given the distinctive character of the CELLTRION trademark, the Respondent was unaware of it at the time it registered or otherwise became the holder of the disputed domain name. This is confirmed by the misspelling of CELLTRION in the disputed domain name as well as by the addition of the element "hc", which stand for "healthcare" and thus create a direct connection to the Complainant's business, so that it seems clear that the Respondent had actual knowledge of the Complainant's CELLTRION trademark and targeted it intentionally.

On the other hand, this Panel considers that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Such is the case here.

Furthermore, based on the record, the Panel finds that the use to which the disputed domain name has been put to, evidences the Respondent's bad faith. Indeed, it results from the Panel's factual findings that the Respondent used the disputed domain name to display links to third party websites, and that it thereby intended to generate commercial revenue. The Panel therefore finds that by using a domain name that is confusingly similar with the Complainant's trademark to redirect Internet users to third party websites, the Respondent creates a likelihood of confusion, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy (*Pixabay GmbH v. Privacy Administrator, Anonymize, Inc.*, WIPO Case No. [D2022-2370](#)).

The Panel thus finds that the Respondent registered and used the disputed domain name to intentionally 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 its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that paragraph 4(a)(iii) of the Policy is satisfied.

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 <celtrionhc.com> be transferred to the Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: November 5, 2024