

## **ADMINISTRATIVE PANEL DECISION**

Alia Therapeutics S.r.l. v. Mary Blower, Resallis Therapeutics  
Case No. D2024-3789

### **1. The Parties**

The Complainant is Alia Therapeutics S.r.l., Italy, represented by Bird & Bird Società tra Avvocati s.r.l., Italy.

The Respondent is Mary Blower, Resallis Therapeutics, United States of America.

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

The disputed domain name <aliatherapeutic.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 17, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 19, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 September 24, 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 September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2024.

The Center appointed Debrett G. Lyons as the sole panelist in this matter on October 25, 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 factual findings pertinent to the decision in this case are that:

(1) the Complainant uses the trademark ALIA THERAPEUTICS in connection with its business in the biotechnology field;

(2) the Complainant is the owner of, inter alia, International (Madrid Protocol) Registration No. 1706027, registered November 10, 2022, for the trademark, ALIA THERAPEUTICS;

(3) the disputed domain name was registered on July 30, 2024, using a privacy service to shield the name of the Respondent;

(4) the disputed domain name has been used as part of an email address posted on employment sites which falsely promote job opportunities with the Complainant; and

(5) there is no relationship between the Parties and the Complainant has not authorized the Respondent to use its trademark or to register any domain name incorporating that mark.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts trademark rights in ALIA THERAPEUTICS. It holds national and pan-national registrations for that trademark and submits that the disputed domain name is "substantially identical" to the trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name because it has no trademark rights; it is not known by the disputed domain name; and use of the disputed domain name has not been bona fide since it has used as part of an email address to fraudulently induce job seekers to divulge sensitive personal information to the Respondent, believing they were corresponding with the Complainant.

The Complainant accordingly alleges that the Respondent registered and has used the disputed domain name in bad faith.

The Complainant requests the Panel to order transfer of the disputed domain name.

##### **B. Respondent**

The Respondent did not submit a Response.

#### **6. Discussion and Findings**

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

(i) the disputed domain name 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.

It is the responsibility of the Panel to consider whether the requirements of the Policy have been met, regardless of the fact that the Respondent failed to submit a response. Having considered the Complaint and the available evidence, the Panel finds the following:

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires a two-fold enquiry – a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to the trademark.

Paragraph 4(a)(i) of the Policy does not distinguish between registered and unregistered trademark rights. It is accepted that a trademark registered with a national or pan-national authority is evidence of trademark rights for the purposes of the Policy.<sup>1</sup> The Panel finds that the Complainant's has trademark rights in ALIA THERAPEUTICS since it provides proof of an International trademark registration of that name.

For the purposes of comparing the disputed domain name with the trademark, the generic Top-Level Domain ("gTLD") ".com" can be disregarded.<sup>2</sup> The Complainant submits that the disputed domain name is substantially identical to its trademark. Substantial identity is not the test under the Policy, albeit that numerous decisions have found that a trademark coupled simply with a gTLD constitutes identity. However, in this instance the disputed domain name also omits the letter "s" from the word "therapeutics" and so the question is one of confusing similarity. The standing test for confusing similarity involves a reasoned but straightforward comparison between the trademark and the disputed domain name. The Panel finds that the disputed domain name involves a trivial alteration of the trademark and so finds that the disputed domain name is confusingly similar to the trademark.<sup>3</sup>

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

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

The Complainant has the burden to establish that the Respondent has no rights or legitimate interests in the disputed domain name. Nevertheless, it is well settled that the Complainant may first make out a prima facie case, after which the burden of production shifts to the Respondent to rebut such prima facie case by providing evidence demonstrating rights or legitimate interests in the disputed domain name.<sup>4</sup>

Notwithstanding the lack of a response to the Complaint, paragraph 4(c) of the Policy states that any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate rights or legitimate interests to a domain name for purposes of paragraph 4(a)(ii) of the Policy:

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<sup>1</sup>See section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

<sup>2</sup>See section 1.11.1 of the [WIPO Overview 3.0](#).

<sup>3</sup>See section 1.7 and 1.9 of the [WIPO Overview 3.0](#).

<sup>4</sup>See section 2.1 of the [WIPO Overview 3.0](#); see also *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent’s name does not suggest that the Respondent might be commonly known by the disputed domain name, and the Panel finds no other evidence that the Respondent might be known by the disputed domain name. Further, the Complainant states that there is no association between the Parties and the Panel finds that there is nothing to contradict that claim. There is no evidence that the Respondent has any trademark rights. Further, the disputed domain name has been used to generate emails in furtherance of the phishing scheme already described. Clearly, such use could never give rise to rights or a legitimate interest.<sup>5</sup>

The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In failing to reply to the Complainant’s contentions the Respondent has not rebutted that prima facie case. The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and so the Complainant has satisfied the second element of the Policy.

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

Paragraph 4(b) of the Policy sets out circumstances, which shall be evidence of the registration and use of a domain name in bad faith. They are:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that the use of the disputed domain name is caught by paragraph 4(b)(iv) above. The Panel has already found the disputed domain name to be confusingly similar to the trademark for the purposes of the Policy. Further, the Panel finds that the use of the disputed domain name is for commercial gain, the exact mode being unimportant. In terms of paragraph 4(b)(iv), the Panel finds that the Respondent has used the disputed domain name intending to attract Internet users to its online location for commercial gain by causing a likelihood of confusion as to the source or endorsement of that location.

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<sup>5</sup>See section 2.13 of the [WIPO Overview 3.0](#).

Alternatively, the Panel finds evidence of registration in bad faith and use in bad faith. The trademark is distinctive and there is nothing to suggest that the Respondent might have its own, legitimate, interest in it. The Respondent has targeted the Complainant and its trademark. The Panel draws the reasonable inference that the disputed domain name was registered in bad faith. Further, the use of the disputed domain name as part of a phishing scheme is manifestly in bad faith (see, for example, *Pfizer Inc v. Michael Chucks / Whoisguard Protected, Whoisguard Inc*, WIPO Case No. [D2014-0887](#); *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#)).

The Panel finds that the Complainant has satisfied the third and final 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 name <aliatherapeutic.com> be transferred to the Complainant.

*/Debrett G. Lyons/*

**Debrett G. Lyons**

Sole Panelist

Date: November 8, 2024