

## ADMINISTRATIVE PANEL DECISION

NAOS v. logan kerls  
Case No. D2024-3929

### 1. The Parties

The Complainant is NAOS, France, represented by Nameshield, France.

The Respondent is logan kerls, Brazil.

### 2. The Domain Name and Registrar

The disputed domain name <bioderma-brasil.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 25, 2024. On September 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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 ("Not Disclosed") and contact information in the Complaint. The Center sent an email communication to the Complainant on September 30, 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 October 1, 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 October 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 29, 2024.

The Center appointed Cristian, L. Calderón Rodríguez as the sole panelist in this matter on November 7, 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

Founded in France 40 years ago by Jean-Noël Thorel, a pharmacist-biologist, NAOS is a major player in skincare thanks to its three brands: Bioderma, Institut Esthederm and Etat Pur.

Ranked among the top 10 independent beauty companies, the Complainant, according to the Complaint, is a pioneer in biology and shifts the skincare industry paradigm. The Complainant has 3,100 employees located around the world through its international presence based on 48 affiliates and long-term partnerships with local distributors, which generate a turnover of 537 million Euros.

To sell its branded products BIODERMA in over 90 countries, especially in Brazil, the Complainant operates under the name Bioderma.

The Complainant owns a large portfolio of trademarks including the wording BIODERMA in several countries, such as:

- International trademark BIODERMA No. 267207 registered since March 19, 1963;
- International trademark BIODERMA No. 510524 registered since March 9, 1987;
- International trademark BIODERMA No. 678846 registered since August 13, 1997.

Furthermore, the Complainant owns multiple domain names consisting of the wording "Bioderma", such as <bioderma.com> and <biodermabrasil.com> registered in 1997 and 2013 respectively.

The disputed domain name <bioderma-brasil.com> was registered on September 19, 2024. It resolves to a website displaying the Complainant's trademark and offering unauthorized or counterfeited BIODERMA goods at discounted prices.

#### 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 Complainant states that the disputed domain name is confusingly similar to its trademark BIODERMA and its associated domain names. Indeed, it includes the trademark in its entirety.

The addition of the country "Brasil", meaning "Brazil" in Portuguese, is not sufficient to avoid the likelihood of confusion. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see *Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin*, WIPO Case No. [D2003-0888](#). On the contrary, this addition worsens the likelihood of confusion with the Complainant's, as it directly refers to its official Brazilian website "www.biodermabrasil.com".

Moreover, the Complainant contends that the addition of the generic Top-Level Domain ("gTLD") ".com" does not change the overall impression of the designation as being connected to the trademark BIODERMA. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names.

Consequently, the disputed domain name is confusingly similar to Complainant's trademark BIODERMA.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The Panel finds that the disputed domain name incorporates the Complainant's trademark in its entirety and is confusingly similar to the trademark BIODERMA.

The addition of the country name "Brasil", meaning "Brazil" in Portuguese does not prevent a finding of confusing similarity. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.8.

Moreover, the Panel finds that the gTLD ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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

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

A complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in a disputed domain name. Once such prima facie case is made, 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. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

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.

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use the trademark BIODERMA in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the disputed domain name directs to a website displaying the trademark BIODERMA and offering allegedly unauthorized or counterfeited BIODERMA goods at discounted prices (Annex 7 to the Complaint).

The Panel finds that the disputed domain name was used to host a website to impersonate the Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originate from Complainant. Such use demonstrates neither a bona fide offering of goods nor a legitimate interest of Respondent (*"Arkema France v. Aaron Blaine"*, WIPO Case No. [D2015-0502](#)).

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

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

Noting the fact that the Complainant's trademarks were registered long time before the registration of the disputed domain name and that the trademark is well-known, the Panel finds that the Respondent registered the disputed domain name in knowledge of the Complainant and its trademarks.

Furthermore, the disputed domain name points to an online store displaying the Complainant's trademark and selling allegedly unauthorized or counterfeited BIODERMA goods at discounted prices (Annex 7 to the Complaint).

The Panel finds that the Respondent registered and used the disputed domain name to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website and goods purportedly advertised therein.

Therefore, the disputed domain name was registered and is being used in bad faith.

### **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 <bioderma-brasil.com> be transferred to the Complainant.

*/Cristian L. Calderón Rodríguez /*

**Cristian L. Calderón Rodríguez**

Sole Panelist

Date: November 21, 2024