

ADMINISTRATIVE PANEL DECISION

RHENA v. Domain Privacy, Domain Name Privacy Inc.
Case No. D2024-4019

1. The Parties

The Complainant is RHENA, France, represented by Addax Avocats, France.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name (“Domain Name”) <rhena.org> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 1, 2024. On October 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 1, 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 (Contact Privacy Inc. Customer 0171889872) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 October 8, 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 October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 5, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on November 9, 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 hospital and healthcare establishment in Strasbourg, France. It is a new modern clinic, which, according to the French newspaper Le Point, is the 4th best medical clinic in France. It is also the only medical establishment in the French Alsace region to own the label "Alsace excellence".

The Complainant's group owns trademark registrations for RHENA, including:

- the French trademark registration No. 4068483, RHENA (word), filed and registered on February 13, 2014 for services in international classes 35, 43, and 44;
- the French trademark registration No. 4068750, RHENA (figurative), filed and registered on February 14, 2014 services in international classes 35, 43 and 44; and
- the French trademark registration No. 4815170, RHENA (figurative), filed and registered on November 8, 2021 for services in international classes 35, 39, 41, 42, 43, 44, and 45.

The Domain Name was registered on July 25, 2024, and leads to a pay-per-click ("PPC") webpage containing links to websites that offer different types of medical equipment, including defibrillators and other medical products.

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.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which the Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 name. 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 entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ("gTLD") ".org" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

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 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 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 Domain Name such as those enumerated in the Policy or otherwise.

On the contrary, the Domain Name is used to host a parked page with PPC links. The Panel finds that it is not unlikely that the Respondent receives PPC fees from the linked websites and uses the Domain Name for its own commercial gain. The use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links mislead Internet users and trade off the complainant's trademark (*Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#); [WIPO Overview 3.0](#), section 2.9).

Furthermore, there is no evidence on record giving rise to any rights or legitimate interests in the Domain Name on the part of the Respondent within the meaning of paragraphs 4(c)(ii) and 4(c)(iii) of the Policy.

In addition, the nature of the Domain Name, consisting entirely of Complainant's trademark carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

This, along with the fact that the Domain Name is registered with a privacy shield service, speaks against any rights or legitimate interests held by Respondent (*Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)).

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.

Because the RHENA mark had been used and registered before the Domain Name registration, the Panel finds it more likely than not that the Respondent had the Complainant's mark in mind when registering the Domain Name.

Moreover, the identity of the Domain Name with the Complainant's mark, reinforces the notion that the Respondent was aware of and intentionally targeted the Complainant in an attempt to confuse Internet users who were expecting to find the Complainant's website.

As regards bad faith use, the Domain name directs Internet users to a website displaying links to third-party sites, which suggests that, presumably, the Respondent receives PPC fees from the linked websites that are listed thereon. It has been recognized that such use of another's trademark to generate revenue from Internet advertising can constitute registration and use in bad faith (*McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. [D2015-0299](#); *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#); [WIPO Overview 3.0](#), section 3.5). Furthermore, the links lead to websites which offer medical equipment including defibrillators, namely equipment that the Complainant, as a hospital, also offers.

This, in view of the finding that the Respondent has no rights to or legitimate interests in the Domain Name, and in the circumstances of the case, affirms the bad faith (*Aygaz Anonim Şirketi v. Arthur Cain*, WIPO Case No. [D2014-1206](#); [WIPO Overview 3.0](#), section 3.1).

The Panel considers also the apparent concealment of the Domain Name holder's identity through use of a privacy shield at the time of filing the Complaint, to be further indicative of bad faith (*BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

Under these circumstances and on this record, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has established the third 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 <rhena.org> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 23, 2024