

ADMINISTRATIVE PANEL DECISION

Incyte Corporation v. Clu Tron, RCI International
Case No. DAI2024-0058

1. The Parties

The Complainant is Incyte Corporation, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Clu Tron, RCI International, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 26, 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 July 30, 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 July 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on August 27, 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 pharmaceutical company. It owns the mark INCYTE for which it enjoys the benefits of registration in a number of jurisdictions, including the United States (e.g., Reg. No. 3044806, registered on January 17, 2006). The Complainant asserts that the disputed domain name was registered on November 15, 2023. The Respondent has set up the disputed domain name to resolve Internet users to a website featuring pay-per-click (“PPC”) links to third-party websites, some of which directly compete with the Complainant’s business.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

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 listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed 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 disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith. The Panel finds that all three of these elements have been met in this case:

A. Identical or Confusingly Similar

This 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. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the INCYTE mark by providing evidence of its trademark registrations. See [WIPO Overview 3.0](#), section 1.2.1

The disputed domain name consists of the INCYTE mark in its entirety. This is sufficient for showing that it is identical to the mark under the Policy. The Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) the Respondent is not sponsored by or affiliated with the Complainant in any way, (2) the Respondent is not commonly known by the disputed domain name, and (3) the Respondent is not using the disputed domain name to provide a bona fide offering of goods or services, nor is it making a legitimate noncommercial or fair use of the disputed domain name. Instead, the Respondent has set up the disputed domain name to redirect Internet users to a website featuring PPC links to third-party websites, some of which directly compete with the Complainant's business.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent's favor. The use of a domain name to host a parked page comprising 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 mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

In the circumstances of this case – particularly because of the distinctive spelling of the word comprising the Complainant's mark, the Panel finds it implausible that the Respondent was not aware of the Complainant and its INCYTE mark when the Respondent registered the disputed domain name which is identical to the Complainant's mark. This sort of targeting supports a finding of bad faith registration. Bad faith use is shown from the Respondent's activities of using the disputed domain name to present PPC links (which directly compete with the Complainant) for commercial gain. For these reasons, the Panel finds that the Complainant has successfully met this third element.

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 <incyte.ai> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: September 11, 2024