

## **ADMINISTRATIVE PANEL DECISION**

4G Clinical B.V. and 4G Clinical, LLC v. Liubov Danilesku  
Case No. DEU2023-0048

### **1. The Parties**

The Complainants are 4G Clinical B.V., Netherlands (Kingdom of the) and 4G Clinical, LLC, United States of America represented by L.A. Daams, Netherlands (Kingdom of the).

The Respondent is Liubov Danilesku, Italy.

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

The Registry of the disputed domain name <4gclinical.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is Registrar.eu.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On December 19, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On December 22, 2023, the Registry 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on December 26, 2023, providing the registrant and contact information disclosed by the Registry, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 26, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 27, 2023. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was January 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 17, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on January 22, 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 ADR Rules, Paragraph B(5).

#### **4. Factual Background**

The Complainant 4G Clinical B.V. is the subsidiary of the second Complainant, 4G Clinical, LLC, and is responsible for operations in Europe. 4G Clinical, LLC is the owner of the 4G CLINICAL trademarks. Being part of the same group, both Complainants have an interest in the right relied upon, and therefore a common grievance against the Respondent, and therefore they will be collectively referred to as the "Complainant" hereinafter.

The Complainant is a clinical software services company that helps to get medicines to those who need them, faster.

The Complainant owns trademark rights for 4G CLINICAL such as the following:

- the European Union trademark registration number 018266189 for 4G CLINICAL (word), filed on July 3, 2020 and registered on December 8, 2020, covering goods and services in Nice Classes 9, 42; and
- the European Union trademark registration number 015644421 for 4G CLINICAL (word), filed on July 12, 2016 and registered on November 15, 2016, covering goods and services in Nice Classes 9, 42.

The disputed domain name was registered on November 17, 2023, and, at the time of filing the Complaint, it was used in connection with a page that displays pay-per-click ("PPC") pages with sponsored links including, at the bottom of the landing page, a link where the disputed domain name was offered for sale for the amount of EUR 499.

According to Annex 3 to the Complaint, before December 7, 2023, the website under the disputed domain name was used in connection with a website displaying links with adult content.

Before commencing the present proceedings, on December 7, 2023, the Complainant send a cease-and-desist letter to the disputed domain name registrant, as listed in the Whois at that time. Annex 4 to the Complaint contains e-mail correspondence between parties, and shows that the Respondent requested a price offer for the disputed domain name; such request being denied by the Complainant. Further, as of December 15, 2023, the content on the website under the disputed domain name has been changed, resolving to a website with the content above mentioned.

Annex 6 to the Complaint provides a reverse Whois search in relation to the Respondent's contact email address, and reveals a number of 289 domain names, at least one of them comprising a third parties' well-known trademark together with a descriptive term related to the respective mark.

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

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

The Complainant contends that it has satisfied each of the elements required under the ADR Rules for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to its trademark; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith since the disputed domain name was acquired primarily for the purpose of cybersquatting and extorting money from the Complainant; the Complainant has

been using the service mark 4G CLINICAL and various domain names to the same extent since 2016; the content under the disputed domain name has been changed following the Complainant's cease-and-desist letter; that the Complainant was the registrant of the disputed domain name until November 16, 2023, but it lapsed inadvertently; the search relating to the email address of the Respondent shows the Respondent is a notorious domain name squatter.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under Paragraph B(11)(d)(1) of the ADR Rules the Complainant is required to demonstrate the following:

(i) that the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law; and either

(ii) that the disputed domain name has been registered by the Respondent without rights or legitimate interests in the name; or

(iii) that the disputed domain name has been registered or is being used in bad faith.

### **A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

Paragraph (B)(1)(b)(9) of the ADR Rules contains a list of rights which may fulfill the definition of "name in respect of which a right is recognized or established" provided in Paragraph (B)(11)(d)(1)(i) of the ADR Rules. Said list includes, inter alia: "copyright, trademarks and geographical indications or designations of origin, and, insofar as they are protected under national law in the Member States where they are held: unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of protected literary and artistic works." 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.<sup>1</sup>

Based on the available record, the Panel finds the Complainant has shown rights in respect of the trademark 4G CLINICAL protected in the European Union. The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the ADR Rules.

The Panel therefore finds that the disputed domain name is identical to the 4G CLINICAL trademark as per the purpose of the Paragraph B(11)(d)(1)(i) of the ADR Rules.

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

Paragraph B(11)(e) of the ADR Rules provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Under the ADR Rules, the burden of proof for the lack of rights or legitimate interests of the Respondent lies with the Complainant. However, panels have recognized that proving a respondent lacks rights or legitimate

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<sup>1</sup> Considering the substantive similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), the Panel also refers to UDRP case law and analysis, where appropriate.

interests in a domain name may result in the often impossible 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. 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 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 ADR Rules or otherwise.

Prior panels have held that where a domain name consists of a trademark, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#). Furthermore, the disputed domain name was first used in connection with a website displaying links with adult content then in connection with PPC pages and was offered for public sale and such facts, together with the other circumstances in this case, do not amount to a bona fide or legitimate use.

Accordingly, the Panel accepts the Complainant’s unrebutted prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and that the Complainant has satisfied the condition set out at Paragraph B(11)(d)(1)(ii) of the ADR Rules.

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

Under Article 4(4) of the Regulation and Paragraph B(11)(d)(1) of the ADR Rules, lack of rights or legitimate interests and registration or use in bad faith are considered alternative requirements for a successful complaint. As the Panel has found that the Respondent lacks rights or legitimate interests in the disputed domain name no further discussion on bad faith registration or use is necessary.

Nevertheless, noting the Complainant’s trademark and company name rights in 4G CLINICAL, the registration of the disputed domain name one day following its lapse, and after being used in connection with the Complainant’s official website, and the Respondent’s conduct in particular in relation to registering numerous domain names, including with third parties’ known trademarks, the Panel finds it likely that the Respondent was aware of the Complainant’s 4G CLINICAL trademark at the registration of the disputed domain name.

At the time of filing the Complaint, the disputed domain name was offered for public sale and the Complainant submitted evidence of e-mail correspondence between parties showing that the Respondent requested a price offer for the disputed domain name. Consequently, the Panel deems applicable the circumstances listed under paragraph (B)(11)(f)(1) of the ADR Rules providing that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the holder of the name, in respect of which a right is recognized or established by national and/or European Union law, *i.e.* the Complainant.

In this case, the Panel further notes the following circumstances that support a finding of bad faith, namely: the composition of the disputed domain name; the change of registrant details and content on the website under the disputed domain name after being summoned by the trademark holder; the correspondence between parties before commencing the present proceedings; the Respondent’s failure to provide a response in this procedure.

The Panel therefore finds that the Respondent has both registered and used the disputed domain name in bad faith and that the condition set out at Paragraph B(11)(d)(1)(iii) of the ADR Rules has also been satisfied.

## 7. Decision

For the foregoing reasons, in accordance with Paragraph B (11) of the ADR Rules, the Panel orders that the disputed domain name <4gclinical.eu> be transferred to the Complainant 4G Clinical B.V.<sup>2</sup>

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: January 31, 2024

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2(i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) The Complainants sought the transfer of the disputed domain name. As the Complainant 4G Clinical B.V. is located in Netherlands (Kingdom of the), a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 4(2)(b) of Regulation (EC) No. 733/2002 as amended by Regulation (EU) 2019/517. Therefore, the Complainant is entitled to request the transfer of the disputed domain name.