

ADMINISTRATIVE PANEL DECISION

Thermo Fisher Scientific Inc. v. luis
Case No. DIO2024-0016

1. The Parties

The Complainant is Thermo Fisher Scientific Inc., United States of America (the “United States”), represented internally.

The Respondent is luis, Spain.

2. The Domain Name and Registrar

The disputed domain name <thermofisher.io> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 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 June 21, 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 June 26, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 24, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on July 30, 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 United States headquartered life science and clinical research company, with revenues of more than USD 40 billion and over 110,000 employees globally.

Through its website, available at the domain namethermofisher.com, and other media, the Complainant offers worldwide products and services in association with THERMO FISHER SCIENTIFIC.

The Complainant owns trademarks for THERMO FISHER SCIENTIFIC, such as the following:

- the United States trademark registration number 3781498 for THERMO FISHER SCIENTIFIC (figurative), filed on October 30, 2006, registered on April 27, 2010, covering services in International classes 35, 37, 42;
- the European Union trademark registration number 005459888 for THERMO FISHER SCIENTIFIC (figurative), filed on October 31, 2006, registered on November 8, 2007, covering goods in International classes 1, 9, and 10.

The disputed domain name was registered on February 28, 2023, and it resolves to a parking page provided by the Registrar.

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 its mark THERMO FISHER SCIENTIFIC is widely recognized; the disputed domain name is confusingly similar to its trademark; the Respondent has no rights or legitimate interests in the disputed domain name; the disputed domain name has been registered in bad faith, without ensuring that its registration does not violate a third party's trademark rights; the disputed domain name was adopted to confuse the Complainant's customers into believing the Respondent is the Complainant; the Respondent is using the disputed domain name in bad faith, as the means by which to perpetrate fraud against the Complainant's customers; by using the disputed domain name, the Respondent purposefully created confusion with the Complainant's mark and misled consumers as to the association and sponsorship of the disputed domain name for fraudulent gain.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered or 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 1.7¹.

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 Panel finds the mark is recognizable within the disputed domain name. The disputed domain name incorporates the dominant elements of the mark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 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 composition of the disputed domain name carries a risk of implied affiliation with the Complainant. In the light of the high degree of similarity between the disputed domain name and the Complainant's company name, trademark, and domain name, such composition cannot constitute fair use as it effectively suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

C. Registered or 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.

¹ Given the similarities between the Policy and the Uniform Domain Name Resolution Policy ("UDRP"), the Panel finds it appropriate to refer to UDRP jurisprudence, including reference to the [WIPO Overview 3.0](#).

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark and business particularly because the disputed domain name reproduces the dominant elements of the Complainant's trademark and trade name and is very similar to the Complainant's domain name, which predate the registration of the disputed domain name by about 15 years.

The disputed domain name is not used in relation to an active website, but resolves on a landing page of the Registrar.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark; the composition of the disputed domain name which is highly similar to the Complainant's trademark, domain name, and trade name; the Respondent's failure to provide a response in this proceeding; and the implausibility of any good faith use to which the disputed domain name may be put, and, finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <thermofisher.io> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: August 13, 2024