

ADMINISTRATIVE PANEL DECISION

Mölnlycke Health Care AB v. Jessie Larson
Case No. DME2023-0015

1. The Parties

The Complainant is Mölnlycke Health Care AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Jessie Larson, United States of America.

2. The Domain Names and Registrar

The disputed domain names <biogel.me> and <hibiwash.me> are registered with Dynadot Inc Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 24, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 29, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 2023, 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 December 8, 2023.

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 December 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 4, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on January 29, 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 medical solutions company, specialising in wound care and surgical procedures. The company was founded in 1849 in Sweden and with over 8,000 employees and EUR 1,686 million in net sales in 2021 is today a global company and developer and manufacturer of high-quality, single-use surgical and wound care products which are marketed and sold worldwide. One of the Complainant's products is an extra-thin surgical glove, marketed under the name "Biogel". The name "Hibi" or the mark "Hibiwash" is used for another product family within the antiseptic product category.

The Complainant owns various trade mark registrations for these marks including Canadian trade mark registration no. TMA380691 for BIOGEL registered on March 1, 1991 and European Union trade mark registration no. 007156672 for HIBIWASH registered on July 7, 2009. The Complainant also owns a corresponding domain name portfolio which includes *inter alia* <hibiwash.com> and <biogel.net>, <biogel.us> and <biogel.org>.

Both the disputed domain names were registered on August 30, 2023. Each of the disputed domain names resolve to webpages at which they are offered respectively for sale at an amount of USD 1,450 each.

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 names.

Notably, the Complainant contends that each disputed domain name wholly incorporates either the BIOGEL or HIBIWASH trade marks and that each disputed domain name is therefore identical or confusingly similar to the respective trade mark. It says that there is no evidence of any legitimate use by the Respondent of either of the disputed domain names.

The Complainant submits that the Respondent does not have any rights in the BIOGEL or HIBIWASH trade marks and that the Respondent is not a licensee of the Complainant. The Complainant says that it has not given the Respondent any permission to register the trade marks as a domain name. Further, says the Complainant, the fact that the trade marks are identical or confusingly similar to the disputed domain names results in a high risk of implied affiliation, with the ccTLD ".me" which could be considered to refer to a personal page linked to the Complainant's brands. It also submits that the fact that the disputed domain names resolve to a webpage on which they are offered for sale for an amount of USD 1,450, does not amount to legitimate or fair use and notes that there is no evidence of demonstrable preparations to use each of the disputed domain names in connection with a bona fide offering of goods or services.

The Complainant notes that its trade marks were registered and used by the Complainant many years before the registration of the disputed domain names in 2023. The Complainant asserts that considering the fact that the Complainant is a well-known company and the holder of several reputed trade marks with a substantial and widespread reputation within the MedTech and Healthcare industries it is not conceivable that the Respondent could have chosen the disputed domain names without knowledge of the Complainant's activities and trade marks.

The Complainant says that the offer for sale of the disputed domain names at the webpage to which each of them resolves for USD 1,450 each demonstrates that they were registered with the intention of being re-sold to the Complainant, or to a competing entity, for valuable consideration in excess of the Respondent's documented out-of-pocket costs. The Complainant notes that the Respondent failed to respond to the "cease and desist" letters of the Complainant and that the disputed domain names have also been registered using privacy services and resolve to websites which do not include any relevant contact information.

The Complainant also notes that the e-mail address used by the Respondent is connected to 1565 domain names, many of which are related to famous trademarks and companies such as Lotus Cars, General Motors, Groupama and Havas. The Complainant says that it is clear that the Respondent is engaged in a pattern of registering abusive domain names containing trade marks so as to prevent trade mark holders from reflecting their trade marks in corresponding domain names. The Complainant says that all of these domain names have been, or are listed as for sale at a "buy now" price ranging from USD 855 - 1,550, a price which in the Complainant's view is well beyond what could be expected to represent the Respondent's out-of-pocket costs related to each domain name.

The Complainant further says that the Respondent is also using other aliases with different registered addresses in order to hide the Respondent's real identity and to circumvent legal proceedings such as a UDRP. Lastly, it says that the Respondent has also been involved in two previous domain name disputes, which resulted in findings of bad faith against the Respondent, namely *VIOOH Limited v. Jessie Larson*, WIPO Case No. [DME2023-0011](#) and *CommScope, Inc. of North Carolina v. Jessie Larson*, *Alternative Dispute Resolution Forum*, Claim No. FA2309002060555.

B. Respondent

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

6. Discussion and Findings

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. As the Respondent is the owner of both disputed domain names in this Complaint, consolidation is unnecessary, and the Panel may proceed to rule upon the Complaint as filed.

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 trade mark 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the respective mark is reproduced within each of the disputed domain names. Accordingly, each of the disputed domain names are identical to a mark in which the Complainant owns rights 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 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.

The Complainant has submitted that the Respondent does not have any rights in the BIOGEL or HIBIWASH trade marks and that the Respondent is not a licensee of the Complainant. The Complainant has also asserted that it has not given the Respondent any permission to register the trade marks as a domain name. The Complainant has also asserted that the fact that the disputed domain names each resolve to a webpage on which they are offered for sale for an amount of USD 1,450, does not amount to legitimate or fair use. Also, the Complainant has noted that there is no evidence of the Respondent’s demonstrable preparations to use each of the disputed domain names in connection with a bona fide offering of goods or services.

Having reviewed the available record and for the reasons set out in Part C below, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

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.

In the present case, the Panel notes that the Complainant’s trade marks were registered and used by the Complainant many years before the registration of the disputed domain names in 2023. The BIOGEL and the HIBIWASH trade marks, are distinctive marks used by the Complainant for a long time in relation to its respective very specific medical products and which were available online and appear to enjoy substantial reputations. In this context the Panel finds it more likely than not that the Respondent was well aware of each of the Complainant’s trade marks when it registered the disputed domain names in 2023.

It does not appear that the Respondent has used the disputed domain names since her registration of them other than to resolve to webpages that market them for USD 1,450 each. This amount is well in excess of the Respondent’s likely out-of-pocket costs in registering each of the disputed domain names and it seems more likely than not that the Respondent registered them with the intent of making a profit, whether by re-sale to the Complainant, or to a competitor or third party in terms of paragraph 4(b)(i) of the Policy. This inference is only reinforced by what appears to be the Respondent’s current and past pattern of conduct in this regard.

Based on the evidence provided by the Complainant, the Respondent appears to have a history of registering third party domain names for re-sale. According to the Complainant, the Respondent is connected to 1565 domain names all of which have been, or are currently listed, as being for sale at a “buy now” price ranging from USD 855 - 1,550. The Respondent has had the opportunity to refute these allegations but has failed to do so. The fact that she has also been involved in two previous reported domain name disputes (as noted under Part A above), which resulted in findings of bad faith being made against her permits an inference that the Respondent is engaged in a pattern of registering domain names that include

the trade mark of what are often well reputed companies which prevents the trade mark owner from registering a domain name for its trade mark in terms of paragraph 4(b)(ii) of the Policy.

Finally, the Complainant notes that the Respondent failed to respond to the “cease and desist” letters of the Complainant and that the disputed domain names have also been registered using privacy services. In the circumstances this is conduct that further reinforces the Panel’s view of the Respondent’s registration and use of each of the disputed domain names in bad faith. Accordingly, 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 names <biogel.me> and <hibiwash.me> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: February 12, 2024