Decision for dispute CAC-UDRP-107155

Case number	CAC-UDRP-107155
Time of filing	2024-12-13 09:05:30
Domain names	biomerieux.online

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	bioMérieux

Complainant representative

Organization	Plasseraud IP

Respondent

Name	collin Parkfield

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of many « BIOMERIEUX » registered trademarks, including the following:

International trademark BIOMERIEUX (word) registration No.933598, registered on June 12, 2007;

International trademark BIOMERIEUX (word) registration No.1392389, registered on October 25, 2017;

European trademark BIOMERIEUX (device) registration No. 17912668, registered on October 20, 2018.

The Complainant is also the owner of numerous domain names comprising the BIOMERIEUX trademark, including the domain names <biomerieux.com>, registered on May 31, 1996, <biomerieux.net>, registered on October 20, 2000, and <biomerieux.org>, registered on October 20, 2000.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a French multinational biotechnology company (notably active in the field of diagnostic solutions) listed on the

NYSE Euronext Paris Stock exchange. Founded in in 1963, the company serves more than 160 countries with its 43 subsidiaries around the world, and through a large network of distributors.

The Complainant is a leading company in the field of in vitro diagnostics, with €3.6 billion in sales.

Previous panelists in other UDRP procedures have recognized the BIOMERIEUX trademark as a renowned trademark.

The disputed domain name <biomerieux.online> was registered on November 30, 2024.

The disputed domain name is not redirected to an active page.

PARTIES CONTENTIONS

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant contends that the disputed domain name is identical to its trademark “BIOMERIEUX”.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant’s business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the distinctiveness of the Complainant’s trademark and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the BIOMERIEUX trademark.

The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and that it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate. In this sense the Complainant quotes previous UDRP decisions affirming that the incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

The Complainant further contends that given the above circumstances, the fact that the Respondent has hidden its identity and contact information through a privacy service, and the absence of any rights and of legitimate interests of the Respondent, coupled with the absence of a legitimate reason for the latter to hold the disputed domain name, are supportive of a finding of bad faith registration.

The Complainant further points out that previous panellists have found that the non-use of a domain name (including a blank or “coming soon” page) does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the WIPO Overview 3.0).

Finally, the Complainant claims that the Respondent, when registering the disputed domain name, concealed its identity and also provided false contact details to the Registrar, and that this amounts to bad faith registration and contributes to evidence of bad faith use of the disputed domain name.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. A) Confusing similarity

The disputed domain name is identical to the Complainant's trademark, save for the ".online" Top-Level Domain ("TLD").

1. B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

1. C) Registered and Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the Respondent, when registering the disputed domain name, concealed its identity and also provided false contact details to the Registrar.

Fourthly, the disputed domain name is not currently redirected to an active page.

Finally, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **biomerieux.online**: Transferred

PANELLISTS

Name	**Fabrizio Bedarida**

DATE OF PANEL DECISION 2025-01-15

Publish the Decision