Decision for dispute CAC-UDRP-107304

Case number	CAC-UDRP-107304
Time of filing	2025-02-13 08:04:43
Domain names	biomerieiux.online

Case administrator

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

Complainant

Organization	bioMérieux

Complainant representative

Organization	Plasseraud IP

Respondent

Organization	fairy tale

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 registered owner of a number of word and/or device mark registrations incorporating the mark BIOMERIEUX, including International word mark number 933 598, registered on June 12, 2007 for BIOMERIEUX which is protected in numerous jurisdictions, including, in particular, the European Union. It also owns trade mark registrations for BIOMERIEUX in the United States, including trade mark registration 1392389 registered on October 25, 2017.

FACTUAL BACKGROUND

The Complainant is a biotechnology company registered in France in 1988. Its headquarters are located in France.

The Complainant owns a number of domain names and its main company website is at <biomerieux.com> which domain name was registered on May 31, 1996.

The disputed domain name was registered on February 4, 2025. At the time of the filing of the Complaint, the disputed domain name resolved to an error page.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
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

The Complainant has submitted that it owns registered trade mark rights for its BIOMERIEUX mark as set out above. As submitted by the Complainant the disputed domain name includes the Complainant's BIOMERIEUX trade mark with one modification being the addition of the vowel "i" in the last part of the trade mark. This amounts to a typosquatting of the Complainant's BIOMERIEUX mark which is plainly recognisable and as noted by the Complainant does not alter the overall perception of the disputed domain name as being extremely similar to the Complainant's trade mark BIOMERIEUX. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's BIOMERIEUX mark.

The Complainant notes its trade mark for BIOMERIEUX is distinctive and well known, and that the Respondent could not have reasonably ignored the reputation of its trade mark. The Complainant further notes that its reputation has been acknowledged by previous panels.

The Complainant has asserted that the Respondent has no rights or legitimate interest in the disputed domain name and that it has never consented to such use. It argues that its mark has a very substantial reputation as a consequence of the size of the Respondent’s business and international operations and of its use of the mark. It says that it does not believe that the Respondent owns rights in “BIOMERIEUX”. It has also submitted that a search on SAEGIS reveals no rights owned by the Respondent and that a Google search only reveals results indicating that the Complainant and companies in its group are registered owners of the BIOMERIEUX trade mark.

The Complainant asserts that there is no evidence that the Respondent is using the disputed domain name for a bone fide reason or non-commercial use as the website diverts to an error page but there is e-mail evidence submitted by the Complainant that the Respondent is using it fraudulently to impersonate the Complainant in order to try to contact a supplier of the Complainant in all probability to divert payments owed to the Complainant to a bank account controlled by the Respondent. The Complainant has submitted and the Panel agrees that it is an established principle that the use of a domain name for illegal activity (such as phishing or impersonation) can never confer rights or legitimate interests on a Respondent. Accordingly, the Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name which case has not been rebutted by the Respondent and that as a result the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As far as registration in bad faith, the Complainant has noted that BIOMERIEUX has no meaning and is a distinctive and well reputed mark internationally as a result of the Complainant's substantial international business, including in the United States where the Respondent appears to be based. It has also noted that the disputed domain name was registered in February 2025, many years

after the Complainant commenced its business and registered its trade marks. Noting these facts and also that the Respondent has used the disputed domain name for the purposes of fraudulent e-mails seeking to interrupt the Complainant's business and to divert monies due to it, the Panel finds that it is more likely than not that the Respondent was well aware of the Complainant's business and BIOMERIEUX mark when it registered the disputed domain name.

It appears from the email evidence submitted by the Complainant that on or around February 10, 2025 the Respondent somehow intercepted business e-mail between the Complainant and one of its supplier/customers and attempted to intercede in the Complainant's payment arrangements using an e-mail address based upon the disputed domain name. By masquerading as if it was the Complainant in order to request payment the Respondent attempted fraudulently to divert funds due to the Complainant using an e-mail address based upon the disputed domain name. This is plainly an illegitimate and fraudulent use of both the disputed domain name and of the e-mail address based upon it and this conduct amounts to use of the disputed domain name in bad faith. The Panel notes that its view of the Respondent's bad faith is further reinforced by the evidence submitted by the Complainant that the Respondent's name and address details appear to be contrived and non-existent.

Accordingly, the Panel finds that the disputed domain name was both registered and has been used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **biomerieiux.online**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2025-03-22

Publish the Decision