Decision for dispute CAC-UDRP-108104

Case number	CAC-UDRP-108104
Time of filing	2025-11-07 10:07:25
Domain names	merieuxbio.com

Case administrator

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

Complainant

Organization	bioMérieux

Complainant representative

Organization	Plasseraud IP

Respondent

Name	chunyong yang

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 the following trademark registrations:

International Trademark BIOMERIEUX n° 933 598, registered on 12 June 2007 (duly renewed since then) in classes 1, 5, 9 and 10, under priority of the French trademark registration n° 06 3 470 357 dated on 1 June 2007. This registration covers Antigua and Barbuda, Bahrain, Bonaire, Saint Eustatius and Saba, Curaçao, European Union, Georgia, Iceland, Japan, Republic of Korea, Norway, Singapore, Sint Maarten (Dutch part), Syria, Turkmenistan, Turkey, Uzbekistan, Zambia, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bhutan, Belarus, Switzerland, China, Cuba, Egypt, Croatia, Islamic Republic of Iran, Kenya, Kyrgyzstan, Democratic People's Republic of Korea, Kazakhstan, Liechtenstein, Liberia, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, The Former Yugoslav Republic of Macedonia, Mongolia, Mozambique, The Republic of Namibia, Serbia, Russian Federation, Sudan, Sierra Leone, San Marino, Swaziland, Tajikistan, Ukraine, Viet Nam, Algeria, Australia, Ghana, Gambia, Botswana, Colombia, Laos, Madagascar, New Zealand, Oman, Rwanda, Zimbabwe;

International Trademark BIOMERIEUX n° 1392389, registered on 25 October 2017 in classes 35, 37, 41, 42 and 44, covering Antigua and Barbuda, Albania, Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Brunei, Bonaire, Sint Eustatius and Saba, Bhutan, Botswana, Belarus, Switzerland, China, Colombia, Cuba, Curaçao, Algeria, Egypt, Georgia, Ghana, Gambia, Israel, India, Iran, Iceland,

Japan, Kenya, Kyrgyzstan, Cambodia, Democratic People's Republic of Korea, Republic of Korea, Kazakhstan, Liechtenstein, Liberia, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Madagascar, The former Yugoslav Republic of Macedonia, Mongolia, Mexico, Mozambique, Namibia, Norway, New Zealand, Oman, Philippines, Serbia, Russian Federation, Rwanda, Sudan, Singapore, Sierra Leone, San Marino, Sao Tome and Principe, Sint Maarten, Syrian Arab Republic, Swaziland, Tajikistan, Turkmenistan, Tunisia, Turkey, Ukraine, United States of America, Uzbekistan, Viet Nam, Zambia, Zimbabwe;

International Trademark n° 1478156, registered on 4 June 2018 in classes 1, 5, 9, 10, 35, 37, 41, 42 and 44, covering Antigua and Barbuda, Albania, Armenia, Australia, Azerbaijan, Bosnia, Bahrain, Brunei, Bonaire, Sint Eustatius and Saba, Bhutan, Botswana, Belarus, Switzerland, China, Colombia, Cuba, Curaçao, Algeria, Egypt, Georgia, Ghana, Gambia, Croatia, Indonesia, Israel, India, Iran, Iceland, Japan, Kenya, Kyrgyzstan, Cambodia, Republic of Korea, Kazakhstan, Lao People's Democratic Republic, Liechtenstein, Liberia, Lesotho, Morocco, Monaco, Republic of Moldova, Montenegro, Madagascar, North Macedonia, Mongolia, Mexico, Mozambique, Namibia, Norway, New Zealand, Oman, Philippines, Serbia, Russian Federation, Rwanda, Sudan, Singapore, San Marino, Sao Tome and Principe, Sint Maarten, Syrian Arab Republic, Eswatini, Thailand, Tajikistan, Turkmenistan, Tunisia, Turkey, Ukraine, United States of America, Uzbekistan, Vietnam, Zambia, Zimbabwe;

European trademark n° 17912668, registered on 5 June 2018 in classes 1, 5, 9, 10, 35, 37, 41, 42 and 44; and

French trademark n° 4416795, filed on 3 January 2018 in classes 1, 5, 9, 10, 35, 37, 41, 42 and 44.

FACTUAL BACKGROUND

COMPLAINANT:

The Complainant is a French multinational biotechnology company (notably active in the field of diagnostic solutions) listed on the NYSE Euronext Paris Stock exchange. Its products are mainly used for diagnosing infectious diseases. They are also used for detecting microorganisms in agri-food, pharmaceutical and cosmetic products. It was founded in 1963 and serves more than 160 countries by means of its 43 subsidiaries around the world and through a large network of distributors. Its leadership in the field of in vitro diagnostics lasts for over 60 years, with €4.0 billion in sales. The Complainant or its subsidiaries, is also the owner of many domain names that include the term "biomerieux", such as <biomerieux.com> which was registered on 31 May 1996 and is used as the address for the Complainant's website.

The disputed domain name was registered on 6 October 2025 and resolves to a parking page with commercial pay-per-click links.

RESPONDENT:

No administratively compliant Response has been filed.

PARTIES CONTENTIONS

COMPLAINANT:

- the Complainant has rights in the registered BIOMERIEUX trademark and the <merieuxbio.com> domain name is identical or confusingly similar to the trademark;

- the Respondent has no rights or legitimate interests in the disputed domain name as it is not commonly known thereby, and the domain name resolves to a page with pay-per-click links that seek to leverage the reputation of the Complainant's distinctive trademark; and

- the disputed domain name was registered and is used in bad faith where the Respondent had prior knowledge of the Complainant's trademark and the domain name's resolving pay-per-click page seeks commercial gain based on confusion with the trademark.

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. Trademark Rights and Identity or Confusing Similarity

Sufficient evidence of trademark rights in the term BIOMERIEUX has been submitted by the Complainant in the form of screenshots from the websites of the above-mentioned trademark offices showing the details of the claimed trademark registrations. As such, the Panel finds that the Complainant possesses rights in its asserted trademark.

Next, the second level of the disputed domain name consists entirely of the terms that make up the Complainant's trademark although the syllables have been transposed. The full disputed domain name adds only the ".com" TLD. These changes do not dispel the confusing similarity between the disputed domain name and the Complainant's trademark in a side-by-side comparison appropriate to Paragraph 4(a)(i). Bloomberg L.P. v. Herrington Hart, NIRT, FA 464790 (FORUM June 1, 2005) ("The Panel finds that the use of transposed words, similar to transposed letters does not suffice to differentiate the disputed domain name from Complainant's mark to create a separate and distinct mark.").

Also, top-level extensions such as ".com" typically add no meaning or distinctiveness to a disputed domain name and may most often be disregarded in the Paragraph 4(a)(i) analysis. Novartis AG v. Wei Zhang, 103365 (CAC 9 December 2020) ("it is generally accepted that the addition of the top-level suffix in the domain name (e.g., '.com') is to be disregarded under the confusing similarity test").

Accordingly, the Panel finds that the Complainant has rights to its claimed trademark and that the addition of a gTLD thereto in the disputed domain name is insufficient to avoid a finding that it is confusingly similar to the Complainant's trademarks. Thus, the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

The Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii). Should it succeed in that effort, the burden then shifts to the Respondent to show that it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, UDRP-102378, (CAC 8 March 2019) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

Paragraph 4(a)(ii) of the Policy directs an examination of the facts to determine whether a respondent has rights or legitimate interest in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or interests.

The first example, under Paragraph 4(c)(i), is where "before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services". Past decisions under the Policy have held that use of a domain name that is confusingly similar to a well-known trademark and that hosts a monetized pay-per-click page is not a bona fide offering of goods or services. See, e.g., Loro Piana S.p.A. v. Y. v. Oostendorp, UDRP-101335 (CAC 26 March 2018) (use of a disputed domain name that copies the complainant's trademark to resolve to a pay-per-click website "cannot be considered a bona fide offering of goods or services...."). Here, the Complainant submits a screenshot showing that the disputed domain name resolves to a parking page that contains pay-per-click links that relate to the Complainant's line of business in the fields of medicine and biotechnology. The disputed domain name is confusingly similar to the asserted BIOMERIEUX trademark and the trademark has developed a strong and global reputation, as demonstrated by the duration and scope of its activities, evidence of which has been provided by the Complainant in the form of screenshots from the Complainant's own website, news reports mentioning the trademark, and an online search for the term "merieuxbio" showing results that exclusively relate to the Complainant. Thus, the Panel concludes that the Respondent is using the disputed domain name to seek click revenue through those diverted Internet users who are trying to reach the Complainant but, due to the confusing similarity of the disputed domain name with the Complainant's trademark, end up at the Respondent's website instead.

The second example, under Paragraph 4(c)(ii), is a scenario in which a respondent is commonly known by the domain name. In considering this issue, relevant information can include the WHOIS record and any other assertions by a complainant regarding the nature of its relationship with a respondent. See LABORATOIRE NUXE v. Domains For Sale, UDRP-106079 (CAC 25 January 2024) ("Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name."). See also Z&V v. Mecara Untech (Mecara Untech), UDRP-106222 (CAC 27 February 2024) (no rights or legitimate interests found where "[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark."). The WHOIS record for the disputed domain name, as verified by the concerned Registrar, identifies the registrant's name as "Chunyong Yang" which bears no resemblance to the disputed domain name. The Complainant further asserts that it "has never given its consent for the Respondent to use its trademark, nor any other similar sign such as MERIEUXBIO in a domain name registration or in any other manner.". The Respondent has not participated in this case and so it does not offer any information or evidence to argue against the Complainant's assertions. Accordingly, the Panel finds no ground upon which to conclude that the Respondent is commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

As to the third example, under paragraph 4(c)(iii) of the Policy, there is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the BIOMERIEUX trademark. As the disputed domain name resolves to a classic pay-per-click website, this does not rebut the assertion that its use is not fair as the Respondent's activity does not fit into any accepted category of fair use such as news reporting, commentary, political speech, education, nominative or generic use, etc.

In light of the above analysis, and with no Response or other submission in this case to rebut the Complainant's assertions, this Panel finds that the facts of this case do not demonstrate that the Respondent has any rights or legitimate interest in the disputed domain name under paragraph 4(a)(ii) of the Policy.

3. Bad Faith Registration and Use

Finally, the Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. Hallmark Licensing, LLC v. EWebMall, Inc., Case No. D2015-2202 (WIPO, 12 February 2016) ("The standard of proof under the Policy is often expressed as the 'balance of the probabilities' or 'preponderance of the evidence' standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true.").

The Complainant first asserts that the Respondent was aware of and targeted the BIOMERIEUX trademark at the time it registered the disputed domain name. Actual knowledge of a complainant's trademark may form the foundation upon which to build a case for bad faith under Policy paragraph 4(a)(iii). See, Intesa Sanpaolo S.p.A. v. Ciro Lota, UDRP-106302 (CAC 4 April 2024) ("Given the distinctiveness and reputation of the Complainant's prior marks, it is inconceivable that the Respondent could have registered the disputed domain name for a mere chance without actual knowledge of the Complainant's rights in such well-known marks and the intention to exploit such reputation by diverting traffic away from the Complainant's website."). As noted above, the BIOMERIEUX trademark has developed a strong global reputation. Further, the confusing similarity between the disputed domain name and the Complainant's unique trademark, combined with the fact that the Complainant operates its own website at the domain name <biomerieux.com> are significant evidence of the Respondent's prior awareness and targeting of the Complainant. As such, the Panel concludes that it is more likely than not that the disputed domain name was registered with actual knowledge of the Complainant's trademark rights.

Next, the Complaint asserts that the disputed domain name is being used for a pay-per-click website to divert users to other websites based upon confusion with its trademark. Such activity has been held to demonstrate bad faith use of a domain name that is confusingly similar to a complainant's trademark. AMUNDI ASSET MANAGEMENT v. Carolina Rodrigues (Fundacion Comercio Electronico), UDRP-106360 (CAC 15 April 2024) (bad faith found where it is shown "(a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; (c) that the disputed domain name resolves to a registrar parking page with commercial links, thus attempting to attract Internet users to his website for commercial gain; and (d) that the disputed domain name was set up with MX records which suggests that it may be actively used for e-mail purposes."). See also, Focus Do It All Group v. Athanasios Sermbizis, D2000-0923 (WIPO 12 October 2000) (the Panel found that "[I]t is enough that commercial gain is being sought for someone" for a use to be commercial."). The Complainant notes that the disputed domain name is "almost identical" to its fanciful and reputed trademark, that the pay-per-click website is seeking commercial gain based on confusion with the trademark. Based on the foregoing arguments and a preponderance of the submitted evidence, the Panel finds that the disputed domain name is being used to seek commercial gain based on a likelihood of confusion with the Complainant's trademark under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **merieuxbio.com**: Transferred

PANELLISTS

Name	**Steven Levy**

DATE OF PANEL DECISION 2025-12-05

Publish the Decision