

ADMINISTRATIVE PANEL DECISION

F. Hoffmann-La Roche AG v. Gholamreza Abbasi
Case No. D2022-4209

1. The Parties

The Complainant is F. Hoffmann-La Roche AG, Switzerland, internally represented.

The Respondent is Gholamreza Abbasi, Hungary.

2. The Domain Name and Registrar

The disputed domain name <biroche.com> is registered with CSL Computer Service Langenbach GmbH dba Joker.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 7, 2022. On November 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 2022, 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 amendment to the Complaint on November 9, 2022.

The Center verified that the Complaint together with the amendment to the 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 November 10, 2022. In accordance with the Rules, paragraph 5, the due date for filing the Response was November 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 1, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on December 8, 2022. 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 Swiss company, one of the world's leading companies in the healthcare, pharmaceutical, and diagnostics business, with operations in over 100 countries.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	Registration No.	Jurisdiction	Date of Registration
ROCHE	340483	International Registration	November 14, 1967
ROCHE	346223	International Registration	June 19, 1968
ROCHE 	832631	International Registration	April 8, 2004

The Complainant owns the domain name <roche.com>.

The Respondent registered the disputed domain name on October 10, 2022, which, according to the evidence submitted by the Complainant, resolves to a website that apparently offers healthcare services and pharmaceutical products.

5. Parties' Contentions

A. Complainant

I. Identical or Confusingly Similar

That the disputed domain name is confusingly to the Complainant's trademark as it incorporates it entirely.

That the addition to the generic term "bio" (sic.) does not add sufficient distinctiveness to the disputed domain name.

That, consequently, the disputed domain name is confusingly similar to the Complainant's trademark, making it possible for customers to believe that the disputed domain name is related to the Complainant.

That the Complainant, also known as ROCHE, and its trademarks are well known since it is among the biggest pharmaceutical and diagnostics companies in the world.

II. Rights or Legitimate Interests

That the Complainant has exclusive and prior rights in the ROCHE trademark, which registration precedes the Respondent's registration of the disputed domain name.

That, contrary to what is stated on the website to which the disputed domain name resolves, the Respondent has no connection to or affiliation with the Complainant, and the said Respondent has not received any license or consent, express or implied, to use the Complainant's trademark.

That "Bioroche" is not an affiliated company of the Complainant or any other part of its business group. That there is no indication that the Respondent is commonly known by the disputed domain name.

That the website to which the disputed domain name resolves displays texts that lead Internet users to believe that the company "Bioroche" is an affiliate of the Complainant, and that said website displays the Complainant's address in Germany. That, therefore, the Respondent is deliberately attempting to create a likelihood of confusion among Internet users and/or to freeride on the goodwill of the Complainant's trademark, apparently for illegitimate commercial gain, including possible phishing activities.

That the Respondent did not reply to the cease and desist letter sent by the Complainant and that therefore he has lost his opportunity to present any case of legitimate interest.

That the Respondent is using the disputed domain name with the purpose of capitalizing on the reputation of the Complainant's trademark.

That there is no reason why the Respondent should have any right to or legitimate interest in the disputed domain name.

III. Registered and Used in Bad Faith

That the disputed domain name was registered in bad faith since the Respondent could not ignore the ROCHE trademark registrations which were granted well before the date of registration of said disputed domain name.

That the disputed domain name was selected by the Respondent to take advantage of the notoriety and goodwill associated with the Complainant's trademark.

That the disputed domain name was registered in bad faith in order to create an impression of an association with the Complainant's trademark.

That the disputed domain name is being used in bad faith since the Respondent clearly knew of the Complainant's well-established reputation and has intentionally sought to confuse Internet users.

That the Respondent's primary motive seems to be to capitalize or otherwise take advantage of the Complainant's trademark rights by creating an initial interest confusion. That this constitutes opportunistic bad faith.

That the website to which the disputed domain name resolves displays the slogan "Doing now what patients need next", which is a slogan that the Complainant has used on its website and other communication channels for a long time.

That the Respondent is illegitimately capitalizing on the Complainant's reputation and goodwill.

That the Respondent clearly knew of the Complainant's well-established reputation in the trademark ROCHE and has intentionally sought to confuse Internet users.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

Given the Respondent's failure to submit any response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The Complainant has filed evidence showing that it owns registrations for the trademark ROCHE, among other places, in Hungary, where the Respondent has declared to reside.

The disputed domain name is confusingly similar to the Complainant's trademark ROCHE, as it incorporates said trademark entirely, with the addition of the term "bi".

Generally, panels appointed under the UDRP have found that the inclusion of additional terms in a disputed domain name does not prevent a finding of confusing similarity under the first element (see sections 1.7, and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). This is so in the present case because the term "bi" does not prevent the trademark ROCHE from being recognizable in the disputed domain name.

The addition of the generic Top-Level Domain ("gTLD") ".com" to the disputed domain name is immaterial for purposes of assessing confusing similarity because it is a technical requirement of the Domain Name System (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *International Business Machines Corporation v. chenaibin*, WIPO Case No. [D2021-0339](#); and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#)).

Therefore, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights to or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel agrees with previous panels appointed under the Policy, in that the ROCHE trademark is well known (see *F. Hoffmann-La Roche AG v. Rashmi Tyagi, Roche Pathology*, WIPO Case No. [D2016-1590](#), and *F. Hoffmann-La Roche AG v. Alejandro Gonzalez, Offshore Racks*, WIPO Case No. [D2021-0297](#)).

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent and that it has not granted any license or authorization to the Respondent to use its ROCHE trademark (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves portrays to be one of the official website of the Complainant or an affiliate of the Complainant. Considering that the disputed domain name fully incorporates the Complainant's trademark, and that the website to which it resolves displays the term "bio", the Complainant's slogan "Doing now what patients need next" (which the Complainant has been using on its website and other media), and the Complainant's address in Germany, the Panel notes that the composition of the disputed domain name and the content of the website to which it resolves carry a risk of implied affiliation since Internet users may think that said website is the Complainant's official website or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#); *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#); *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#), and *F. Hoffmann-La Roche AG v. Ali Esmaelnejad*, WIPO Case No. [D2022-3667](#) ("Here, the dominant element of the disputed domain name corresponds exactly to the Complainant's mark, and the additional term "bio" suggests that the disputed domain name belongs to the bio-related department or subsidiary of the Complainant, and carries a risk of implied affiliation.")).

The Complainant demonstrated that the website to which the disputed domain name resolves offers healthcare services that compete with those of the Complainant, which shows that said website constitutes an attempt to impersonate or pass off as the Complainant since it misleads Internet users as to the source or sponsorship of services that are similar to those provided by the Complainant, while seeking a commercial gain (see sections 2.5.1, 2.5.2, and 2.5.3 of the [WIPO Overview 3.0](#), as well as UDRP cases *The Royal Edinburgh Military Tattoo Limited v. Identity Protection Service, Identity Protect Limited / Martin Clegg, WM Holdings*, WIPO Case No. [D2016-2290](#); *Segway Inc. v. Domains By Proxy, LLC / Arthur Andreasyan, NIM*, WIPO Case No. [D2016-0725](#), and *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#) ("The consensus view of prior panels is that impersonation of the complainant is neither a use in connection with a *bona fide* offering of products or services under Policy paragraph 4(c)(i), nor a fair or legitimate noncommercial use without intent for commercial gain misleadingly to divert consumers, can never confer rights or legitimate interests on a respondent.")).

The Complainant has established a *prima facie* case asserting that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Respondent did not submit any evidence or arguments to challenge the Complainant's assertions.

Accordingly, the Complainant has satisfied the requirements of the second element of the Policy.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

As previously stated, the Complainant has proven that it owns registrations for the well-known trademark ROCHE in several different jurisdictions, among others, in Hungary, where the Respondent has declared to reside.

The fact that the Respondent chose to register the disputed domain name, which resolves to a website that displays the Complainant's well-known trademark ROCHE, the Complainant's slogan "Doing now what patients need next", and the Complainant's address in Germany, and that said website offers healthcare services, suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name. Therefore, the Panel finds that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

These facts also show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which it resolves, by creating the impression among Internet users that said website is related to, associated with or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

According to the evidence submitted by the Complainant and not contested by the Respondent, the said Respondent has used the disputed domain name in an attempt to impersonate the Complainant for commercial gain, which also constitutes bad faith under the Policy (see also *SwissCare Europe v. michael click, Active OutDoors LLC*, WIPO Case No. [D2022-1496](#): ("This Panel considers that, in appropriate circumstances, a failure to pass the impersonation test may properly lead to a finding of registration and use in bad faith because of the fact that, at its heart, such a domain name has been selected and used with the intention of unfairly deceiving Internet users, notably those who are (actual or potential) consumers of the trademark owner."); *Philip Morris Products S.A. v. Domain Administrator, Registrant of iqosatismaganiz.com (apiname com) / Anl Girgin, Teknoloji Sarayi*, WIPO Case No. [D2019-0466](#); *Self-Portrait IP Limited v. Franklin Kelly, supra*; and *Friedman and Soliman Enterprises, LLC v. Gary Selesko, M&B Relocation and Referral, LLC*, WIPO Case No. [D2016-0800](#)).

Therefore, the third element of the Policy has been fulfilled.

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 <biroche.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: December 22, 2022