

## **ADMINISTRATIVE PANEL DECISION**

**STADA Arzneimittel AG and Britannia Pharmaceuticals Limited v.  
Gideon Odo, DigitalSpace Technology  
Case No. D2022-4901**

### **1. The Parties**

The Complainants are STADA Arzneimittel AG, Germany; and Britannia Pharmaceuticals Limited, United Kingdom, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America.

The Respondent is Gideon Odo, DigitalSpace Technology, Nigeria.

### **2. The Domain Name and Registrar**

The disputed domain name <britannias-pharm.com> (the “Disputed Domain Name”) is registered with The Registry at Info Avenue, LLC d/b/a Spirit Telecom (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2022. On December 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 27, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 January 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 25, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on February 6, 2023. 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, STADA Arzneimittel AG, (“Stada”) is a German incorporated company that operates a life sciences business founded some 120 years ago, that sells products in approximately 120 countries, employs more than 13,000 people and achieved group sales in 2021 of EUR 3,249.5 million. The Complainant, Britannia Pharmaceuticals Limited (“Britannia”), founded in 1982, is a wholly owned subsidiary of Stada, and also operates a life sciences business with a focus on therapies that address Parkinson’s disease (collectively, the “Complainant”). The Complainant holds a portfolio of registrations for the trademarks BRITANNIA and BRITANNIA PHARMACEUTICALS in numerous countries including United Kingdom Registration No. 2043054 for the mark BRITANNIA, registered on September 13, 1996.

The Complainant owns numerous domain names that comprise or contain the trademark BRITANNIA together with the abbreviation of the word “pharmaceutical”: “pharm”, including the domain name <britannia-pharm.co.uk>, and the domain name <britannia-pharm.com>, each of which resolve to its main website.

The Disputed Domain Name <britannias-pharm.com> was registered on December 10, 2022. The Disputed Domain Name was used to resolve to a direct copy of the Complainant’s main website, using the same trademarks, images, and artwork.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant cites its trademark registrations for BRITANNIA in various countries as *prima facie* evidence of ownership.

The Complainant’s contention is that its rights in the trademark BRITANNIA predate the Respondent’s registration of the Disputed Domain Name by some 26 years. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name incorporates in its entirety the BRITANNIA trademark and that the confusing similarity is not affected by the addition, respectively, of the letter “s” or the abbreviation of the word “pharmaceutical”: “pharm”, and addition of the generic Top-Level Domain (“gTLD”) “.com”.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that “By using the Disputed Domain Name in connection with a website that appears to be a website for, or otherwise associated with, Complainant [...], Respondent’s actions are clearly not legitimate and clearly are misleading and, therefore, Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy”.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules. It submits that “the Disputed Domain Name is ‘so obviously connected with’ Complainant given Complainant’s registration of the BRITANNIA Trademark for 26 years [...] [that the] Respondent’s actions suggest ‘opportunistic bad faith’ in violation of the Policy”.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

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

### A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark BRITANNIA. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the BRITANNIA trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark BRITANNIA; (b) followed by the letter "s"; (c) followed by a hyphen; (d) followed by the abbreviation "pharm"; (e) followed by the gTLD ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "britannias-pharm".

The Panel finds the use of the Complainant's trademark in combination with the letter "s" and the word "pharm", which is an abbreviation of the word "pharmaceutical", does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

As the relevant mark is incorporated in its entirety in the Disputed Domain Name, in line with previous UDRP decisions, this Panel finds the Disputed Domain Name is confusingly similar to the Complainant's BRITANNIA trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden of proof on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the "Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized anyone to register or use the Disputed Domain Name in any manner or to use the BRITANNIA Trademark the manner in which it has been used by Respondent" and for that reason contends that the Respondent is not making a *bona fide* offering of goods or services.

The Respondent is not an authorized reseller with legitimate interests in the Disputed Domain Name incorporating the Complainant's mark. Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name. The Panel accepts the Complainant's uncontested submission that "Respondent has clearly used the Disputed Domain Name for illegal activity, including impersonation".

This Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it is engaging in an illegitimate commercial use of the Disputed Domain Name by suggesting some association with the Complainant for the purpose of misleading consumers based on users seeking out the Complainant's mark BRITANNIA and opportunistically using the Complainant's trademark to divert Internet traffic to its web page.

The Panel finds for the Complainant on the second element of the Policy.

### **C. Registered and Used in Bad Faith**

The third element of the Policy that a complainant must also demonstrate is that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both.

The evidence that the Respondent has registered and used the Disputed Domain Name in bad faith is overwhelming. In line with numerous other Panel decisions, this Panel finds that there is evidence in this proceeding that supports a finding that the Respondent has registered the Disputed Domain Name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark. These are as follows: (i) seeking to cause confusion for the Respondent's commercial benefit, even if unsuccessful, having regard to the uncontradicted evidence of record that the Disputed Domain Name was used to resolve to a website bearing the same trademarks, images, and artwork from the Complainant's own main website, (ii) a lack of the Respondent's own rights to or legitimate interests in the Disputed Domain Name, (iii) redirecting the Disputed Domain Name to a different Respondent-owned website that copies the Complainant's own main website, and (iv) the absence of any conceivable good faith use, which certainly calls for an explanation where none has been forthcoming. (See [WIPO Overview 3.0](#), section 3.1.4).

Further, a gap of several years between registration of the Complainant's trademark and the Respondent's registration of the Disputed Domain Name (containing the trademark) can in certain circumstances be an indicator of bad faith (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Complainant's rights in its trademark predate any rights that could possibly flow from the Respondent's registration by some 26 years.

On the issue of use, the Panel notes that the Disputed Domain Name was used to resolve to an online website that purportedly copied the Complainant's own main homepage. In line with prior UDRP panel decisions, the Panel finds that the obvious danger of online consumers being afforded inaccurate, incomplete, or misleading information about medical products, services, and applications and the probable diversion of actual sales reinforces the Respondent's bad faith (see *Lilly ICOS LLC v. Tudor Burden, Burden Marketing*, WIPO Case No. [D2004-0794](#); *Roche Products Inc. v. Michael Robert*, WIPO Case No. [D2008-1155](#)).

There is also evidence that a DNS "mail exchange" (MX) record has been activated, allowing email to be routed to a mail server, in further evidence of bad faith under the policy in view of the increased risk of fraud or phishing. Seeking to obtain personal information, or sensitive financial information, of potential customers of the complainant, is an activity that falls into a category of conduct known as "phishing". In line with prior UDRP panel decisions, the Panel finds that the potential or actual use of the Disputed Domain Name for a *per se* illegitimate activity such as phishing supports a finding of bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

This Panel also views the provision of false contact information as an additional and separate indication of bad faith, in addition to the Written Notice which seems to be undelivered to the postal address provided by the Respondent to the Registrar (see [WIPO Overview 3.0](#), section 3.6).

This Panel finds that the Respondent has taken the Complainant's trademark BRITANNIA and incorporated it in the Disputed Domain Name without the Complainant's consent or authorization, along with the hyphen, the letter "s", and the abbreviation "pharm", for the purpose of capitalizing on the reputation of the trademark by diverting Internet users for commercial gain to its website which falls into the meaning of bad faith under paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 Name, <britannias-pharm.com>, be transferred to the Complainant.

*/Nicholas Weston/*

**Nicholas Weston**

Sole Panelist

Date: February 10, 2023