

ADMINISTRATIVE PANEL DECISION

Nipro Corporation v. hi hihhi, qwesss
Case No. D2023-0335

1. The Parties

Complainant is Nipro Corporation, Japan, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America.

Respondent is hi hihhi, qwesss, Senegal.

2. The Domain Names and Registrars

The domain names <niprobr.com>, <niprocash.com>, <niproec.com>, and <niproidr.com> are registered with GoDaddy.com, LLC. The domain name <nipromedical.vip> is registered with Wild West Domains, LLC. (together the “Domain Names”, and GoDaddy.com, LLC, and Wild West Domains, LLC, collectively the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On the same day, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on January 26, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on January 27, 2023.

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 Respondent of the Complaint, and the proceedings commenced on January 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 17, 2023.

The Center appointed Clive L. Elliott K.C., as the sole panelist in this matter on February 21, 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

Complainant was founded in 1954. It is a Japanese manufacturing company of renal, medical-surgical, and interventional radiology products, specializing in medical, pharmaceutical, and glass products. It is the holder of the domain name <nipro.co.jp> which was registered on March 28, 1997, and which is used in connection with its primary website.

Nipro Medical Corporation is Complainant's wholly owned subsidiary company responsible for managing sales, marketing, and business operations for North and South America. Through Nipro Medical Corporation, Complainant is the registrant of the domain name <nipro.com>, registered on May 6, 1999, and which is used in connection with its primary website for North and South America.

Complainant is the owner of at least 74 trade mark registrations in at least 32 countries or jurisdictions worldwide that consist solely of the NIPRO trade mark ("Complainant's Mark"). Registrations for Complainant's Mark include:

- Japan – registration No. 1105815, registered on February 10, 1975;
- United States of America – registration no 1,441,070, registered on June 2, 1987;
- United Kingdom – registration No 1584255, registered on February 16, 1996;
- European Union – registration No 3205838, registered on August 23, 2004.

Complainant has prevailed in at least four previous domain name dispute proceedings relating to Complainant's Mark.

According to the publicly available WhoIs, the Domain Names were registered as follows:

<niprobr.com> - November 12, 2022;
<niprocash.com> - October 16, 2022;
<niproec.com> - November 12, 2022;
<niproidr.com> - October 28, 2022; and
<nipromedical.vip> - October 10, 2022.

According to the evidence provided by Complainant, the Domain Names all resolve to websites entitled "NiproMedical".

5. Parties' Contentions

A. Complainant

Complainant contends that each of the Domain Names is confusingly similar to Complainant's Mark as they all contain Complainant's Mark in its entirety with the addition of a generic word (*i.e.* "cash" or "medical"), or an abbreviation (*i.e.* "br" for Brazil, "ec" for European Community, "idr" (either an abbreviation for "infection disease requisition", or the currency code for Rupiahs, the official currency of Indonesia).

Complainant asserts that Respondent is using each of the Domain Names in connection with websites that appear to be associated with Complainant as each website is entitled "NiproMedical" and purports to offer products that are related to Complainant's business, *i.e.* medical equipment, pharmaceuticals, and pharmaceutical containers. As such, Complainant submits, Respondent is not using the Domain Names as

a *bona fide* offering of goods or services.

Complainant suggests that because each of the Domain Names give the impression that they are connected with Complainant, it is likely that Respondent knew of Complainant's Mark and has registered the Domain Names in opportunistic bad faith seeking to obtain a commercial benefit through confusion.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant is the owner, amongst others, of a number of long-standing trade mark registrations, including in Japan, the United States of America, the European Union, and the United Kingdom. These are set out above and are referred to as "Complainant's Marks".

The Domain Names reproduce Complainant's Marks containing the element NIPRO in its entirety. The Domain Names also include the English words "cash" or "medical", or abbreviations, such as "br" for Brazil, "ec" for European Community, or "idr", which Complainant asserts, is an abbreviation for "infection disease requisition", the currency code for Rupiahs, the official currency of Indonesia. The inclusion or addition of these words, or abbreviations, does not prevent a finding of confusing similarity. See section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, Complainant's Marks are recognizable in the Domain Names. See section 1.7 of [WIPO Overview 3.0](#).

The Domain Names are therefore confusingly similar to Complainant's Marks.

The first ground under the Policy is made out.

B. Rights or Legitimate Interests

As noted above, Complainant asserts that Respondent is using the Domain Names on or in connection with websites that appear to be websites for, or otherwise associated with, Complainant. That is, on the basis that these websites are titled "NiproMedical" and purport to offer medical equipment, pharmaceuticals, and pharmaceutical containers. In the absence of any attempt to deny or refute these allegations, the Panel accepts what Complainant says. As Complainant points out, these types of products are similar to the products manufactured and or sold by or associated with Complainant and Complainant's Mark. It follows that Respondent's conduct is likely to mislead members of the public and such conduct is therefore not legitimate and Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy.

In addition, on the face of it, this does not represent a *bona fide* offering of goods or services. Instead, it appears to be an attempt to both reference and draw on Complainant's good name and reputation. In view thereof, and considering the apparently fictitious name disclosed by the Registrar for Respondent, the Respondent cannot claim to have been commonly known by the Domain Names. Given the profile and reputation of Complainant, these allegations call for a response, but none has been forthcoming.

Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the Domain Names.

C. Registered and Used in Bad Faith

Complainant relies on the observation in the section 3.1.4 of the [WIPO Overview 3.0](#) that: “[T]he mere registration of a domain name that is identical or confusingly similar [...] to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Complainant relies on this statement, submitting that Complainant’s Mark is famous and/or widely known, given that it is protected by at least 74 trade mark registrations in at least 32 jurisdictions worldwide, the oldest of which was registered 48 years ago.

The Panel accepts the force of this submission. It is supported by the fact that the Domain Names appear to be used in connection with websites that purport to offer medical equipment, pharmaceuticals, and pharmaceutical containers, which can hardly be entirely coincidental given Complainant’s related services under its trade mark. The Panel finds that the Domain Names were registered with the requisite knowledge on Respondent’s part and have since been used in a manner likely to mislead members of the public. Lastly, the Respondent also seems to have used false contact information when registering the Domain Names, which further supports its bad faith.

Given the totality, the Panel concludes that the Domain Names were registered and used in bad faith.

Complainant has therefore established the third ground under 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 Doman Names, <niprobr.com>, <niprocash.com>, <niproec.com>, <niproidr.com>, and <nipromedical.vip>, be transferred to Complainant.

/Clive L. Elliott K.C./

Clive L. Elliott K.C.

Sole Panelist

Date: March 13, 2023