

**DECISION OF THE THIRD-PARTY DECIDER**

**Complainant BioNTech SE / Domain name holder Ye Li**

**Case no. 444207 / domain name . biontech.be**

**1. The Parties**

1.1. Complainant:

BioNTech SE  
Address: An der Goldgrube 12, 55131 Mainz, Germany

*Represented by:*

Name: MSA IP – Milojevic Sekulic & Associates  
Function: Attorneys at Law  
Address: Karadjordjeva 65, 11000 Belgrade, Serbia

1.2. Domain name holder:

Ye Li  
Person to be contacted: Ye Li  
Function: Unknown  
Address: Tianmushan Rd. 2000, Zhejiang 310020, Hangzhou, China

*Not represented*

## 2. Domain name

Domain name: **biontech.be**

Registered on: March 30, 2020 3:01 AM CEST

Last update June 25, 2023 7:46 AM CEST

*Hereafter referred to as "the Domain name".*

## 3. Procedure

1. On November, 3<sup>rd</sup>, 2023, Complainant filed a complaint (the "Complaint") with the Belgian Centre for Arbitration and Mediation ("CEPANI") concerning the Domain Name **biontech.be** pursuant to the "CEPANI Rules for Domain Name Dispute Resolution" (the "CEPANI Rules") and the "Dispute Resolution Policy" of the terms and conditions for domain name registration under the ".be" top-level domain operated by DNS.be (the "DNS Policy").
2. In accordance with Paragraph 10(e) of the Policy, and for the reasons described in section 5 of its Complaint Form, the Complainant requests from the Third-party Decider appointed in this administrative proceeding that the domain name **biontech.be**, registered by the Domain Name Holder on March 30, 2020, be transferred to the Complainant.
3. On December, 26<sup>th</sup>, 2023, CEPANI appointed the Third-Party Decider to settle the dispute concerning the aforementioned Domain Name.
4. The Third-Party Decider accepted the instruction and provided CEPANI with the declaration of independence in accordance with article 7 of the CEPANI Rules.
5. Pursuant to article 10 of the CEPANI Rules, CEPANI provided the Third-Party Decider with an electronic copy of the case file, consisting of the Complaint and 21 annexes thereto.
6. Pursuant to article 13 of the CEPANI Rules, the deliberations were closed on January , 2<sup>nd</sup> 2024.
7. The Domain Name Holder did not file any response to the Complaint.

#### 4. Factual Background information

Complainant is a biotechnology company pioneering the development of novel therapies for cancer and other serious diseases. It develops and manufactures active immunotherapies for patient-specific approaches to the treatment of diseases, which include pharmaceutical candidates based on messenger RNA (mRNA) for use, inter alia, as individualized cancer immunotherapies and as vaccines against infectious diseases. Complainant focuses on developing cancer therapeutics, including individualized immunotherapy, as well as vaccines for infectious diseases, including COVID-19 (together with US pharmaceutical company Pfizer).

Complainant became aware of Respondent's registration of the disputed domain name <biontech.be> which is identical to its well-known trademark BIONTECH, as the same incorporates this trademark in its entirety as the second-level-domain, in combination with the country code top-level domain ".be".

The disputed domain name was registered on March 30, 2020 (shortly after Complainant has announced the start of work on COVID-19 vaccine) and it resolves to parking page with sponsored links (pay-per-click) where the offer for sale of the disputed domain name is placed for the amount of 15,000 USD (Complainant's file, Annex 4, print screen of 11/29/23, 3:27 PM ).

The Complainant has offered the possibility to the Domain name holder to voluntarily proceed with the transfer of the Domain name.

The Domain name holder did not file any response to the Complainant or CEPANI;

#### 5. Position of the parties

##### 5.1. Position of the Complainant

The Complainant's Complaint is based on the following grounds:

**The domain name is identical or confusingly similar to a trademark**, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights;

**5.1.1. Complainant is the owner of a number of trademarks for its well-known mark BIONTECH, including the following (Complainant's file, Annex 6):**

- EUTM No. 008964447, "BIONTECH", registered on December 22, 2010, duly renewed and covering goods and services in classes 1, 5, 42 and 44;
- EUTM No. 016241465, "BIONTECH", registered on November 9, 2017 and covering goods and services in classes 1, 5, 9, 10, 16, 31, 41, 42 and 44.

Complainant is also the registrant of a number of domain names, many of which incorporate its BIONTECH trademark. These domain names include the following (Annex 7):

- <biontech.com> registered on May 29, 1998;
- <biontech.de> registered on October 10, 2007;
- <biontech.info> registered on February 27, 2009;
- <biontech.net> registered on February 27, 2009;
- <biontech.us> registered on May 8, 2019;
- <biontech-covid19.com> registered on June 5, 2020; and
- <biontechglobal.com> registered on April 20, 2020.

During the COVID-19 pandemic (January 2020 – May 2023) Complainant was present in media throughout the world on a daily basis and due to the recognition of its vaccine, Complainant's BIONTECH trademark has gained well-known status within a short period of time. (Complainant's file, Annexes 8, 9 and 10)

The disputed domain name incorporates Complainant's trademark BIONTECH without any addition terms. In this context, the addition of the ccTLD ".be" should be disregarded.

The disputed domain name creates a clear likelihood of confusion with the Complainant's BIONTECH trademark. It is likely that this domain name could mislead Internet users into thinking that they are, in some way, associated with the Complainant.

**5.1.2. The Respondent has no rights or legitimate interests in respect of the domain name;**

The Domain name holder is not affiliated with Complainant in any way and has not been authorized by Complainant to use and register its trademark or to seek registration of any domain name incorporating said mark.

The Domain name holder did not demonstrate use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name resolves to parking page with sponsored links (pay-per-click) where it is offered for sale for the amount of 15,000 USD (Complainant's file, Annex 4).

The Domain name holder was a party as respondent to other UDRP proceedings. Before WIPO, the Respondent appears on respondent's side in at least 25 UDRP/DRP proceedings all of which were decided in favour of the complainants (Complainant's file, Annex 17).

Apart from domain name that is subject to this complaint, the Domain name holder has registered at least three more domain names that are identical with Complainant's BIONTECH trademark: <biontech.fi>, <biontech.mx> and <biontech.com.mx> (Complainant's file, Annex 19). Domain names <biontech.fi> and <biontech.mx> currently do not resolve to active pages, while the domain name <biontech.com.mx> resolves to PPC page where it is offered for sale for 9,500 USD (with the identical layout as the domain name <biontech.be>) (Complainant's file, Annex 20).

### **5.1.3. The domain name was registered or is being used in bad faith.**

Complainant states that it is implausible that Respondent was unaware of Complainant when he registered the disputed domain name.

Complainant is well-known throughout the world, including China (where Respondent is allegedly located). Due to the exceptional media presence of Complainant throughout the COVID-19 pandemic, it is difficult to imagine that Respondent did not have Complainant in mind when registering the disputed domain name.

The complainant also underlines that having in mind number of previous UDRP/DRP cases and their outcomes, it is clear that Respondent's behaviour constitutes a pattern of conduct of preventing trademark holders from reflecting their trademarks in a corresponding domain name.

The Complainant also emphasizes that there are elements that should be put forward to support the finding that Respondent also uses the disputed domain name in bad faith.

The disputed domain name resolves to a parking page with sponsored links (pay-per-click) and such use indicates that Domain name holder is using the disputed domain name in order to make a commercial gain by abusing the Complainant's reputation.

Additionally, the disputed domain name has been offered for sale for a price that significantly exceeds the out-of-pocket costs that the Respondent has had in relation to disputed domain name.

## 5.2. Position of the Domain name holder

The Domain name holder did not file any response to the Complaint with CEPANI. He did not put up any defence.

## 6. Discussion and findings

### **6.1. The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights**

Whereas the Complainant proves that he is the owner of a number of trademarks for its well-known mark BIONTECH, including the following (Complainants file, Annex 6):

- EUTM No. 008964447, "BIONTECH", registered on December 22, 2010, duly renewed and covering goods and services in classes 1, 5, 42 and 44;
- EUTM No. 016241465, "BIONTECH", registered on November 9, 2017 and covering goods and services in classes 1, 5, 9, 10, 16, 31, 41, 42 and 44.

Whereas the Complainant proves also that he is the registrant of at least 7 (seven) domain names, which incorporate its BIONTECH trademark. (see point 5.1.1 hereabove),

Whereas, in the opinion of the third party decider, the Complainant makes it sufficiently plausible that at the time of the registration of the Domain Name, his trade mark is a well-known trade mark through its presence in the media during the Covid-19 pandemic (Complainants file, Annexes 8, 9 and 10).

Prior panels in domain name disputes have recognized the well-known character of BIONTECH trademark (see, for example,

BioNTech SE v. Anonymize, Inc. / Wang Liqun, WIPO Case No. D2022-3413 - <https://www.wipo.int/amc/en/domains/decisions/pdf/2022/d2022-3413.pdf> ,  
BioNTech SE v. Sandra Eggers, WIPO Case No. D2022-4905 - <https://www.wipo.int/amc/en/domains/decisions/pdf/2022/d2022-4905.pdf> ,  
BioNTech SE v. Marcos Alonso, WIPO Case No. D2022-4904 – <https://www.wipo.int/amc/en/domains/decisions/pdf/2022/d2022-4904.pdf> ,

BioNTech SE v. ITtrust Domain Services LTD, WIPO Case No. DEU2022-0035 – <https://www.wipo.int/amc/en/domains/decisions/pdf/2022/deu2022-0035.pdf> ,  
BioNTech SE v. Lei Wang, WIPO Case No. DME2023-0006 – <https://www.wipo.int/amc/en/domains/decisions/pdf/2023/dme2023-0006.pdf> ,  
BioNTech SE v. Wang Liqun, WIPO Case No. DAE2023-0003 – <https://www.wipo.int/amc/en/domains/decisions/pdf/2023/dae2023-0003.pdf> and  
BioNTech SE v. jin, WIPO Case No. D2023-2021 – <https://www.wipo.int/amc/en/domains/decisions/pdf/2023/d2023-2021.pdf> ).

Whereas the only difference between the BIONTECH trademark and the disputed domain name is the addition of the country code Top-Level Domain “.be”

The Third Party Decider considers that the use of the ccTLD is irrelevant in assessing the confusing similarity between the Complainant’s trademarks and the disputed domain name.

Therefore, the Third Party Decider finds the disputed domain name to be identical to the BIONTECH trademarks in which the Complainant has rights.

#### 6.2. The Domain name holder has no right or legitimate interests in the Domain Name

The Complainant claims that the Domain name holder is not affiliated with Complainant in any way and has not been authorized by Complainant to use and register its trademark or to seek registration of any domain name incorporating said mark. The Domain name holder does not contradict this claim.

Whereas there are no indications that the Domain name holder has used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use. No evidence is available showing that the Domain name holder would have been commonly known by the domain name.

Whereas it results from annex 4 submitted by the Complainant that the Domain name resolves to a parking page with sponsored links (pay-per-click) and such use indicates that Domain name holder is using the disputed domain name in order to make a commercial gain by abusing the Complainant's reputation. Additionally, the disputed domain name has been offered for sale for a price of 15,000 USD, that significantly exceeds the out-of-pocket costs that the Respondent has had in relation to disputed domain name.

Whereas it results from the parking page to which the Domain name resolves, that the Domain name holder is not making a legitimate and non-commercial or fair use of the domain name.

Therefore, the Third Party Decider concludes that the Domain name holder has no rights or legitimate interests in the domain name.

6.3. The Domain name holder's Domain Name has been registered or is being used in bad faith

Whereas, as stated under point 6.2. hereabove, the Domain name resolves to a parking page that only indicates that the Domain name is for sale at a price of 15,000 USD.

Whereas the Domain name holder was involved in a large number of previous UDRP/DRP cases (see file of the Complainant, Annexes 17: not less than 27 WIPO cases) and the number of domain names with which the name of de Domain name holder is linked (file of the Complainant, Annexes 18 : 2,257 domain names)

Whereas pursuant art. 10, b), 2) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the evidence of in bad faith registration or use of a domain name can inter alia be demonstrated by the following circumstances: "circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark"

Whereas it results from the considerations above that the Domain name was registered primarily for the purpose of selling and that the Domain name holder is linked with an unbelievable number of domain names and was respondent in a lot of WIPO cases concerning domain name disputes,

The Third Party Decider concludes that the Domain name has been registered in bath faith.

## **7. Decision**

**Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the domain name registration for the domain name :**

**" biontech.be"**

**is to be transferred to the complainant.**



Place, Date.  
1600 Sint Pieters-Leeuw, January,15, 2024

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The Third-party Decider  
Francis WALSCHOT