



Asian Domain Name Dispute Resolution Centre

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201614
Complainant:	Hangzhou Bioer Technology Co., Ltd
Respondent:	Mira Hold / Mira Holdings, Inc
Disputed Domain Name(s):	<BIOER.COM>

1. The Parties and Contested Domain Name

1. The Complainant is Hangzhou Bioer Technology Co., Ltd, of No. 1192, Bin'an Road, High-tech Industrial Development Zone, Hangzhou City, Zhejiang Province.
2. The Respondent is Mira Hold / Mira Holdings, Inc, of 2751 Hennepin Ave Ste 159 Minneapolis, MN 55408, US.
3. The domain name at issue is <BIOER.COM>, registered by the Respondent with TurnCommerce, Inc DBA Namebright.com, of 2635 Walnut Street, Denver CO 80205.

2. Procedural History

4. The Complainant filed this complaint with the Asian Domain Name Dispute Resolution Centre (ADNDRC) (Hong Kong Office) on 01 April 2022.
5. A copy of the Complaint was sent to the Respondent on 19 April 2022. The Respondent filed its response on 13 May 2022.
6. On 02 June 2022, after confirming that they were able to act independently and impartially between the parties, the ADNDRC appointed Mr David Allison, Prof. Xue Hong and Mr Wilson Pinheiro Jabur to act as Panellists in this matter.

3. Factual background

7. The Complainant is a well-known, Chinese based company, dealing in PCR diagnostics, laboratory construction, nucleic acid sample collection and preservation, nucleic acid extraction and detection, etc. It also conducts medical diagnosis, animal husbandry and aquaculture, scientific research, food safety, customs disease control and many other fields.
8. The Complainant is known by the name of BIOER and has a number of trademarks for BIOER in numerous jurisdictions. Among its trademarks are:

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- a. PRC Trademark, "BIOER & Device" in Class 9, Reg. No. 442239, Reg. Date 28 Feb 2009;
and
 - b. Hong Kong SAR Trademark, BIOER & Device in Classes 5, 9 & 10, Reg. No. 305574952,
Reg. Date: 04 Aug 2021
9. The Complainant has also registered and used the Chinese domain name of www.bioer.com.cn since at least 09 August 2002.
10. The Respondent is Mira Hold / Mira Holdings, Inc. The Respondent describes itself as a professional domain name investor with over 1000 generic domain names in its portfolio and offered for sale. The Respondent purchased the disputed domain name on 08 July 2020 and the Respondent has subsequently 'parked' the disputed domain name with the monetizer website, BODIS.COM and has offered the disputed domain name for sale. There are however, no links to the to any other site from the disputed domain name nor is there any reference to the Complainant or its trademarks.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is identical to the trademarks owned by the Complainant;
- ii. The Respondent has no rights or interests in the disputed domain name since the disputed domain name has no relation to the Respondent's business name;
- iii. The Respondent has registered hundreds of domain names, many of them well-known which shows the Respondent's bad faith.

B. Respondent

The Respondent's contentions may be summarized as follows:

- i. It is a professional domain name investor;
- ii. The purchase and sale of generic domain names is a legitimate business and therefore, the Respondent has legitimate rights and interests in the disputed domain name.

5. Findings

11. The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:
- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
 - ii. Respondent has no rights or legitimate interests in respect of the domain name; and
 - iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

12. The Complainant has adduced sufficient evidence to demonstrate that it has clear trademark rights to the mark “BIOER” in Mainland China and Hong Kong. The Complainant has also provided abundant relevant evidence to clearly establish that the trademark “BIOER” is relatively well known and has a high reputation among the relevant public. As such, the Panel finds that the Complainant has sufficient rights and interests in the “BIOER” mark.
13. When comparing the Complainant’s marks and the disputed domain name, it is clear that they are identical in terms of their key elements. Indeed, the Respondent, in its submissions, also admits that the Complainant’s trademarks and the disputed domain name are identical.
14. Accordingly, the Complainant has made out the first element.

B) Rights and Legitimate Interests

15. Rights and legitimate interests are at the heart of this Complainant. For its part, the Complainant argues that there is no relationship whatsoever between the Respondent’s corporate name (ie Mira or Mira holdings) and the dispute domain name nor has the Complainant authorised the Respondent to use its trademarks or business name in any way.
16. On the other hand, the Respondent claims that it is a ‘professional domain name investor’ and is no mere ‘domain name grabber’ as claimed by the Complainant.
17. While none of the typical scenarios outlined under UDRP Policy para 4(c) to demonstrate legitimate interests have been raised by the Respondent, nevertheless, the Respondent claims that merely holding domain names for sale, with no targeting of the Complainant, represents a legitimate business which is sufficient to confer a legitimate interest. To support its view, it refers to a number of US Forum decisions including *Oath Inc. v. Mira Hold / Mira Holdings, Inc* (Claim Number: FA1908001858330).
18. A key issue is whether holding domain names for sale to third parties can ever be a legitimate interest in respect of the domain name. The WIPO consensus view is that holding or aggregating domain names consisting of abbreviations, dictionary words etc *can be* a legitimate interest. However, what will be important is the explanation given by the Respondent for the selection of that particular domain name, etc. In this case, no explanation has been provided by the Respondent for holding and offering to sell the disputed domain name besides the fact that it is in the business of buying and selling domain names.
19. It appears clear from the Respondent’s submission that its business is focussed on buying and selling domain names. It is also clear that it has not in any way tried to interfere with the Complainant’s business, redirect traffic away from the Complainant’s website nor has it attempted to target the Complainant to try and get it to purchase the disputed domain name, etc.
20. Nevertheless, even accepting the Respondent’s arguments, at its highest all they demonstrate is that the Respondent has legitimate interests *in the business* of selling domain names. What it has not demonstrated is a legitimate interest *in the disputed domain name itself*. There is no

legitimate use (or anticipated use) of the domain name, and the disputed domain name has no relationship with the Respondent's business or trademarks, etc.

21. Accordingly, the Respondent has not demonstrated that it has any rights or legitimate interests in the disputed domain name. As such, the second element has been satisfied.

C) Bad Faith

22. In terms of the third element, this Panel's main concern is with the issue of 'wilful blindness'. While this case does not appear to satisfy any of the typical circumstances outlined under UDRP Policy paragraph 4(b) to demonstrate bad faith, it should be recalled that the situations under para 4(b) are not exhaustive and the Panel may consider all of the circumstances of the case when assessing bad faith.
23. In particular, several panels have found the issue of 'wilful blindness' to be relevant to the issue of bad faith. Recalling UDRP para 2(b) (ie *2(b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party*) some Panels have held that a certain minimum due diligence is required to satisfy a domain name Registration that acquisition of the relevant domain name will not infringe third party rights. This factor is particularly relevant in cases such as this where the very business of the Respondent is to acquire and hold domain names and it represents itself as a 'professional domain name investor'.
24. In this case, even the most basic and perfunctory Google search will show that the first few pages of the search result are overwhelmingly dominated by references to the Complainant and its marks 'BIOER'. There are simply no other ways in which the name BIOER could be construed except as a clear and unambiguous reference to the Complainant.
25. Accordingly, this Panel is of the view that the Respondent has been wilfully blind to the Complainant's rights and legitimate interests and thus by acquiring and attempting to sell the disputed domain name, it has demonstrated bad faith.
26. Therefore, the Panel is of the view that the third element has been satisfied.

6. Decision

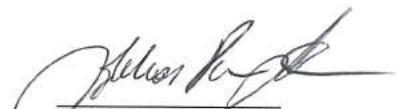
27. The Panel finds that the Complainant has satisfied all three elements of UDRP paragraph 4(a). Accordingly, the Panel orders that the disputed domain name <BIOER.COM > be transferred to the Complainant.



David Allison
Presiding Panellist



Xue Hong
Panellist



Wilson Pinheiro Jabur
Panellist

Dated: 15 June 2022