

ADMINISTRATIVE PANEL DECISION

Amgen, Inc. v. Rongwu Zhang
Case No. D2023-0088

1. The Parties

The Complainant is Amgen, Inc., United States of America (“United States”), represented by Snell & Wilmer, LLP, United States.

The Respondent is Rongwu Zhang, China.

2. The Domain Name and Registrar

The disputed domain name <amgencema.com> is registered with Hong Kong Juming Network Technology Co., Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 7, 2023. On January 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2023, 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 January 12, 2023, 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 amended Complaint on January 12, 2023.

The Center verified that the Complaint together with the amended 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 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 3, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on February 8, 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 is a global biopharmaceuticals company focused on research, innovation, and treatment in the areas of cardiovascular disease, oncology, bone health, neuroscience, nephrology, and inflammation.

The Complainant owns numerous registrations for its AMGEN trademark, *inter alia*, the United States Trademark registrations No. 1,621,967 (word mark) registered on November 13, 1990 and no. 2,170,735 (logo) registered on July 7, 1998.

The Complainant also holds several domain names, including the domain name <amgen.com>.

The disputed domain name was registered on October 13, 2022.

The disputed domain name resolved to a website with pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the AMGEN trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word "CEMA" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The mark AMGEN is associated with the Complainant, since the trademark AMGEN has been extensively used internationally over decades to identify the Complainant and its products. The Respondent is not commonly known by Amgen or Amgencema, has not been authorized by the Complainant to use this trademark and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. To the contrary, the disputed domain name has resolved to a pornographic website, and such use does not constitute use in good faith.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark AMGEN at the time it registered the disputed domain name, and because the redirection of the disputed domain name to a pornographic site constitutes use in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;

- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its AMGEN trademark.

The Panel notes that the disputed domain name incorporates the AMGEN trademark in its entirety. The addition of the ending “cema” does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the Top-Level Domain “.com” in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark AMGEN.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark AMGEN and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. Rather, the Complainant has shown that the disputed domain name has resolved to a pornographic website and contends that this does not constitute use in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its AMGEN trademark is well known.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant’s well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the disputed domain name resolved to a website offering pornographic content. Previous panels have held that the redirection to pornographic sites from a domain name incorporating a well-known mark is evidence of use in bad faith. See *e.g. Ferrero S.p.A. v. Jacques Stade*, WIPO Case No. [DBZ2003-0002](#) (<nutella.biz>); *Six Continents Hotels, Inc. v. Seweryn Nowak*, WIPO Case No. [D2003-0022](#) (<holidayinnakron.com>).

The Panel thus finds that the disputed domain name was registered and used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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, <amgencema.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: February 20, 2023