

## **ADMINISTRATIVE PANEL DECISION**

GENFIT SA v. Yusufu Mieraili, Palam Abel, SPF Precut Lumber Inc., Ashok Khetrapal Making Magics LLC  
Case No. D2023-4375

### **1. The Parties**

The Complainant is GENFIT SA, France, represented by Domainoo, France.

The Respondent is Yusufu Mieraili, China, Palam Abel, SPF Precut Lumber Inc., United States of America and Ashok Khetrapal Making Magics LLC, United States of America.

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

The disputed domain name <versantispharmaceuticals.com> is registered with PSI-USA, Inc. dba Domain Robot.

The disputed domain name <versantispharma.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

The disputed domain name <versantispharm.com> is registered with NameCheap, Inc. (referred all together as the "Registrars").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 23, 2023. On October 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 23, 24 and 25, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 25, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on October 26, 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 November 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 23, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on December 4, 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. Preliminary issue: Consolidation of Respondents**

The Panel has considered the possible consolidation of the Complaint for the disputed domain names. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2, “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

The Panel notes the following features of the disputed domain names and arguments submitted by the Complainant in favor of the consolidation of the disputed domain names:

- (i) the disputed domain names are used in the same manner, all disputed domain names redirect to a website reproducing the old version of the Complainant’s official website with the same trademark and logo.
- (ii) the email address associated with the disputed domain names is the same ([...].@gmail.com).
- (iii) the disputed domain names appear subject to common control intended for use in the same fraudulent enterprise; and
- (iv) consolidation would be fair and equitable to all Parties.

All the above, along with the fact that the named Respondents did not submit any arguments to rebut this inference is taken into account by the Panel.

The Panel finds that the consolidation is fair to the Parties, and the Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint (if indeed there is more than one respondent for these disputed domain names), but have chosen not to try to rebut the consolidation (see [WIPO Overview 3.0](#), section 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanhiao*, WIPO Case No. [D2016-2302](#)). Based on the Complaint, the Panel finds that it is more likely than not that the disputed domain names are in common control of one entity; hence, the Panel grants the consolidation for the disputed domain names (and will refer to these Respondents as the “Respondent”).

#### **5. Factual Background**

The Complainant is a Swiss company founded in 2015 headquartered in Zurich.

The Complainant is a clinical stage biotechnology company focused on addressing the growing, unmet medical need in liver diseases.

The Complainant is the owner of the following trademarks:

- French trademark VERSANTIS n°4969611 in the classes 5, 42 and 44 registered on July 7, 2023;
- French trademark VERSANTIS (figurative) n°4969616 in the classes 5, 42 and 44 registered on July 7, 2023.

The Complainant is also the owner of the domain names <versantis.com>, registered on June 13, 2012, and <versantis.health>, registered on September 3, 2019.

The disputed domain names were registered as follows:

<versantispharmaceuticals.com> registered on July 18, 2023;  
<versantispharm.com> registered on June 18, 2023;  
<versantispharma.com> registered on January 25, 2023.

The disputed domain names redirect to identical websites that reproduce the old version of the Complainant's official website with the same trademark and logo.

## **6. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The disputed domain names reproduce identically and in entirety the VERSANTIS trademarks. The descriptive words "pharmaceutical", "pharm" and "pharma", which refer to the field of activity of the Complainant do not differentiate these disputed domain names from the Complainant's trademarks.

The Respondent has no license or authorization from the Complainant to use the trademarks VERSANTIS in the disputed domain names.

The disputed domain names are associated to identical websites used for a commercial purpose; these websites are reproducing the old version of the Complainant's official website with the same trademark and logo.

The Respondent does not make a legitimate non-commercial or fair use of the disputed domain names.

The confusion created between the Complainant's activities and the Respondent's disputed domain names reflects the bad faith in the registration and use of the disputed domain names.

### **B. Respondent**

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

## **7. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a 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 names; and (iii) the disputed domain names have been registered and are being used in bad faith. Considering these requirements, the Panel rules as follows:

## **A. Identical or Confusingly Similar**

The Panel holds that the disputed domain names are confusingly similar to the Complainant's trademark VERSANTIS. The Respondent's incorporation of the Complainant's trademarks in full in the disputed domain names is evidence that the disputed domain names are confusingly similar to the Complainant's marks. Mere addition of the terms "pharmaceuticals", "pharma" and "pharm" in the disputed domain names does not prevent a finding of confusing similarity with the Complainant's marks.

The Complainant has provided evidence of its rights in the trademarks on the basis of its multiple trademark registrations VERSANTIS in France. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see [WIPO Overview 3.0](#), section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#). Further, the addition of the generic Top-Level Domain ("gTLD") ".com" to the disputed domain name does not prevent a finding of confusing similarity for purposes of the Policy.

The Panel is satisfied that the disputed domain names are confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

While the overall burden of proof in UDRP proceedings is on the Complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the Respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain names. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)). The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain names, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain names.

The Respondent is not known under the disputed domain names. The Panel notes that the Respondent has not filed any response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or (iii) (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) (iv) circumstances indicating that

the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location. With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its VERSANTIS trademark.

On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the VERSANTIS mark at the time the disputed domain names were registered. Bad faith can be presumed based on the widely evidenced recognition of the Complainant's marks and moreover can be imputed from the use made of the disputed domain names, such that the Respondent was aware or should have been aware of the Complainant's well-known marks and claims of rights thereto. The Panel finds that the Respondent has registered the disputed domain names that contains the Complainant's trademark VERSANTIS, merely including the generic terms "pharmaceuticals", "pharma" and "pharm", in bad faith. In fact, all these terms refer to the economic activity for which the Complainant is recognized. In the Panel's view, the Complainant's mark is famous and the mere registration by the unrelated Respondent creates a presumption of bad faith in this case. On this subject, section 3.1.4 of the [WIPO Overview 3.0](#) says: "Panels have consistently found that the 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."

The Panel is satisfied that by directing the disputed domain names to commercial websites allegedly offering the Complainant's services, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the services on its website (see section 3.1.3 of the [WIPO Overview 3.0](#)). Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

The Complainant points out that the Respondent is hiding its identity behind a Whois privacy wall for <versantispharm.com>. It is well established that this, too, can be further *prima facie* evidence of bad faith in certain circumstances. Having considered the Complainant's submissions and in the absence of a Response, the Panel accepts the Complainant's submission that on the evidence there is no plausible circumstance under which the Respondent could legitimately register or use the disputed domain names.

Consequently, the Panel finds that the disputed domain names were registered and is being used by the Respondent in bad faith within paragraph 4(a)(iii) of the Policy.

## 8. 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 names <versantispharmaceuticals.com>, <versantispharma.com> and <versantispharm.com> be transferred to the Complainant.

**/Daniel Peña/**

**Daniel Peña**

Sole Panelist

Date: December 18, 2024