

ADMINISTRATIVE PANEL DECISION

CVS Pharmacy, Inc. v. PrivacyDotLink Customer 2418667 / Zhenhua Bin
Case No. D2022-2329

1. The Parties

The Complainant is CVS Pharmacy, Inc., United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is PrivacyDotLink Customer 2418667, Cayman Islands, United Kingdom / Zhenhua Bin, China.

2. The Domain Name and Registrar

The disputed domain name <wwwcvshealth.com> is registered with GoDaddy Online Services Cayman Islands Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2022. On June 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 2022, 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 June 29, 2022, 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 amendment to the Complaint/amended Complaint on the same day.

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 the Respondent of the Complaint, and the proceedings commenced on July 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 8, 2022. 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 operates in the field of health innovation and owns trademark registrations for CVS and CVS HEALTH such as:

- United States trademark registration No. 919,941 for CVS registered on September 7, 1971 (first used in 1963);
- United States trademark registration No. 1,698,636 for CVS registered on July 7, 1992; and
- United States trademark registration No. 5,055,141 for CVS HEALTH registered on October 4, 2016.

The Complainant is the registrant of and uses the domain names <cv.com>, <cvhealth.com>, and <cvhealthpharmacy.com>.

The disputed domain name was registered on September 3, 2014 and directs to a website containing Pay-Per-Click ("PPC") links.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant's trademark CVS has been found well-known by prior UDRP panels. The disputed domain name incorporates the Complainant's trademarks CVS and CVS HEALTH in their entirety. As such, it would be considered confusingly similar to the Complainant's trademarks. The absence of space between "cv" and "health" has no consequences on the assessment. The addition of the letters "www" to the trademark does not eliminate confusing similarity. The generic Top-Level-Domain ("gTLD") ".com" can be disregarded when assessing confusing similarity as it is viewed as a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant never authorized the Respondent to use its trademark nor assigned or licensed its trademark to the Respondent. The disputed domain name is used in connection with a pay-per-click ("PPC") page and this does not create a *bona fide* offering of goods or services and it is a commercial use. To the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The Complainant's trademark is well-known and the registration of a well-known trademark creates a presumption of bad faith. The Respondent must have been aware of the Complainant's trademark and must have registered the disputed domain name to disrupt the Complainant's business or to attract for commercial gain Internet users. Use of the disputed domain name in connection with a PPC page constitutes bad faith under the circumstances. Additionally, the first use of the Complainant's trademark predates the registration of the disputed domain name by 51 years. Lastly, the Respondent is a serial cybersquatter.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for CVS. The Panel is satisfied that the Complainant has established its ownership of the trademark CVS.

The disputed domain name incorporates the Complainant's trademark CVS in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered trademark, such incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy even if other terms are added as part of the disputed domain name. See e.g., *Oki Data Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("*Oki Data*"). The addition of the term "health" does not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark. The letters "www" do not prevent a finding of confusing similarity either and the disputed domain name remains confusingly similar to the Complainant's trademark (*General Electric Company v. mr domains (Marcelo Ratafia)*, WIPO Case No. [D2000-0594](#)).

The gTLD ".com" can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark and contends that the Respondent has no rights or legitimate interests in the disputed domain name and that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services. The Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and good will of the complainant's mark. The Panel visited the website to which the disputed domain name resolves and notes that it contains links some of which relate to health services. It is the Panel's view that the Respondent is trying to capitalize on the reputation and good will of the Complainant's mark. In *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#), it was found that the Respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve to pay-per-click advertising websites and collect click-through revenue from advertising links. Such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit. There is no indication on the website that the Respondent has made a *bona fide use* of the disputed domain name".

Furthermore, the absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name un rebutted.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The nature of the disputed domain name suggests affiliation with the Complainant as it incorporates the Complainant's CVS trademark in full. The use of the word "health" reinforces the impression that the disputed domain name is associated with the Complainant as the Complainant operates in the field of health services. Accordingly, the Respondent must have been aware of the Complainant's trademark and business.

Also, the disputed domain name resolves to a PPC page, which contains links to websites some of which relate to health services. Such use constitutes bad faith. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#), the UDRP panel found that "[w]hile the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use." In addition, the composition of the disputed domain name points towards its registration due to its similarities with the Complainant's trademark. In this regard, even if the PPC links might be construed at some point as unrelated to the Complainant or the CVS Trademark, noting the nature of the disputed domain name, and in the circumstances of this case, such use would still amount to use in bad faith under the Policy. The use of a privacy shield service is under the circumstances a further indication of bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of 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 disputed domain name, <www.cvshealth.com>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: August 11, 2022