

ADMINISTRATIVE PANEL DECISION

CVS Pharmacy, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2024-1452

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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <mylifecvshealth.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 2024, 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 (Carolina Rodrigues) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 10, 2024, 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 on April 16, 2024.

The Center verified that 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 April 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2024.

The Center appointed Rebecca Slater as the sole panelist in this matter on May 17, 2024. 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 CVS Pharmacy, Inc., the principal operating company of CVS Health Corporation (“CVS Health”), a publicly traded corporation headquartered in the United States. The Complainant is a wholly owned subsidiary of CVS Health and holds many assets, including the trade marks set out below and domain names which incorporate those trade marks. CVS Health is a leading healthcare company that owns, along with other brands, a retail pharmacy chain and health insurance provider. The first Consumer Value Store, or CVS, was founded in 1963 in Massachusetts. Today, 85% of all Americans live within 10 miles of a CVS Pharmacy location.

The Complainant has a portfolio of registrations for CVS and CVS HEALTH, including United States Trade Mark Registration No. 919,941 for CVS word mark (registered September 7, 1971) and United States Trade Mark Registration No. 5,055,141 for CVS HEALTH word mark (registered October 4, 2016) (the “Trade Marks”).

The Complainant is also the registrant of the domain name <cvshealth.com> (registered April 15, 2005).

The Respondent is Carolina Rodrigues. The Respondent did not submit a formal response, and consequently little information is known about the Respondent.

The Respondent registered the disputed domain name on March 12, 2018.

As of April 2, 2024, the website at the dispute domain name stated “Access to this System has been blocked for security reasons” and instructing visitors to “Call Apple Support” at a displayed telephone number.

The website at the disputed domain name currently displays click-through links and states that the domain is for sale.

5. 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 name.

Notably, the Complainant contends that:

- The disputed domain name is confusingly similar to the Trade Marks. It consists of the entirety of Trade Marks preceded by the descriptive terms “my” and “life”.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use the Trade Marks. The disputed domain name is being used in connection with a “tech support scam”, which is not a bona fide offering of goods or services.
- The disputed domain name was registered and is being used in bad faith by the Respondent. The registration of a well-known trade mark can create a presumption of bad faith. It is inconceivable that the disputed domain name was registered without knowledge of the Complainant and the Trade Marks. This suggests “opportunistic bad faith” and that the Respondent registered the disputed domain name to obtain a commercial benefit through attracting confused Internet users. The use of the disputed domain name in connection with a “tech support scam” is further evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Trade Marks and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Marks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "my" and "life") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the Trade Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the

Policy or otherwise.

The Complainant has not authorized the Respondent to use the Trade Marks and there is no evidence that the Respondent has ever been known by the disputed domain name.

Panels have held that the use of a domain name for illegal activity (here, claimed to be a fraudulent “tech support scam”) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy. Panels have held that the use of a domain name for illegal activity (here, claimed to be a fraudulent “tech support scam”) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel finds it highly unlikely that the disputed domain name was registered without knowledge of the Complainant and the Trade Marks, given the longstanding reputation of the Complainant. The Respondent’s goal in registering and using the disputed domain name appears to be to attract Internet users for potential gain, which finding is reinforced given the change of use of the disputed domain name for links generating click-through revenue for the Respondent and also the advertising for sale of the disputed domain name. This amounts to “opportunistic bad faith” in violation of the Policy. Further, the Panel notes that the Respondent has engaged in a pattern of bad faith conduct, targeting both third party trademarks and the Complainant in prior instances. See, for example, *CVS Pharmacy, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1741](#), and *Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-1402](#).

The Panel finds that the Complainant has established the third element 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 <mylifecvshealth.com> be transferred to the Complainant.

/Rebecca Slater/

Rebecca Slater

Sole Panelist

Date: June 1, 2024