

ADMINISTRATIVE PANEL DECISION

Advanz Pharma Corp. v. Lazarro Amante
Case No. D2023-4075

1. The Parties

The Complainant is Advanz Pharma Corp., United Kingdom ("UK"), represented by ZeroFox, United States of America ("United States").

The Respondent is Lazarro Amante, United States.

2. The Domain Name and Registrar

The disputed domain name <advanzpharma.net> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 27, 2023. On September 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 October 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 23, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on October 26, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Advanz Pharma Corp., a United Kingdom company operating in the pharmaceutical field, and owning the following United Kingdom trademark registration for ADVANZ, registered in the name of its wholly owned subsidiary Advanz Pharma Services (UK) Limited:

- United Kingdom Trademark Registration No. UK00003298101 for ADVANZ, registered on June 22, 2018.

The Complainant also operates on the Internet, its official website being “www.advanzpharma.com”.

According to the evidence filed by the Complainant, the disputed domain name was registered on March 2, 2023, and it redirects to the Complainant’s official website, at “www.advanzpharma.com”.

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 disputed domain name is confusingly similar to its trademark ADVANZ.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name: the disputed domain name redirects Internet users to the Complainant’s official website.

The Complainant submits that the Respondent targeted the Complainant’s trademark at the time of registration of the disputed domain name and that the use of the disputed domain name to redirect to the Complainant’s official website creates the impression of a relationship between the Respondent and the Complainant and disrupts the Complainant’s business, qualifying as bad faith registration and use.

Finally, the Complainant suspects that the Respondent might also use the disputed domain name in connection with phishing or fraudulent email communications, since the mail exchanger (MX) records attached to the disputed domain name have been activated.

B. Respondent

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

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

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

It is also well accepted that a generic Top-Level Domain, in this case ".net", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

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 name. 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 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. On the contrary, the use of the disputed domain name for redirecting Internet users to the Complainant’s official website is likely to create confusion with the Complainant’s trademark as to the disputed domain name’s source, sponsorship, affiliation or endorsement.

Moreover, the Panel finds that the composition of the disputed domain name, including the term “pharma” relevant to the Complainant and referring to the Complainant’s company name, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

In the present case, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademark ADVANZ in the pharmaceutical field is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain name in bad faith, especially because the disputed domain name redirects to the Complainant’s official website.

The Panel further notes that the disputed domain name is also being used in bad faith since the Respondent is redirecting the disputed domain name to the Complainant’s official website, creating likelihood of confusion with the Complainant’s trademark as to source, sponsorship, affiliation or endorsement.

Moreover, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the Complainant’s trademark ADVANZ in its entirety with the addition of the term “pharma” and therefore makes it identical to the Complainant’s company name as well as to the Complainant’s official website, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Finally, since the MX records attached to the disputed domain name have been activated, noting the nature of the disputed domain name (being it identical to the Complainant’s company name as well as to the Complainant’s official website), the Panel deems that there is a risk that the disputed domain name could be used for phishing activities.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <advanzpharma.net> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: November 2, 2023