

## **ADMINISTRATIVE PANEL DECISION**

GenVivo, Inc. v. NameSilo, LLC, Domain Administrator  
Case No. D2024-2359

### **1. The Parties**

Complainant is GenVivo, Inc., United States of America, (“United States”) represented by Markmonitor, United States.

Respondent is NameSilo, LLC, Domain Administrator, United States.

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

The disputed domain name <careersgenvivoinc.com> (hereinafter “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 11 and June 12, 2024, the Registrar transmitted by email to the Center its verification response disclosing that the registrant provided nothing but the email address when registering the Disputed Domain Name.

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 Respondent of the Complaint, and the proceedings commenced on June 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 10, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on July 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

Complainant is a gene therapy company that develops cancer-fighting treatments aimed at improving survival rates of patients. Complainant uses the domain name <genvivoinc.com> for its official internet presentation. Complainant is also using the email address “careers@genvivoinc.com” for job opportunities.

Complainant owns two United States registrations for the trademark GENVIVO (hereinafter the “Mark”):

- United States Trademark No. 7215892 for the trademark GENVIVO (words alone in plain text) registered on November 14, 2023;
- United States Trademark No. 7103243 registered on July 11, 2023 for the Mark plus as design:



The Disputed Domain Name was registered on February 26, 2024, and resolves to a parked page with sponsored pay-per-click links, including (in the submitted evidence) links to “Medical Products” and “Job From Home.” The email servers (MX Records) for the Disputed Domain Name are configured to send and receive email.

#### 5. Parties’ Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that the Disputed Domain Name presents a risk of phishing, noting that the Disputed Domain Name servers are configured to send and receive email. In this regard, Complainant notes that when it communicates by email about employment opportunities, it often uses the email address “careers@genvivoinc.com”, which is confusingly similar to the Disputed Domain Name <careersgenvivoinc.com>.

##### B. Respondent

Respondent did not reply to Complainant’s contentions.

#### 6. Discussion and Findings

##### 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 Complainant’s trademark and the Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

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 Mark is reproduced within the Disputed Domain Name.

Although the addition of other terms, here “careers” and “inc”, may bear on assessment of the second and third elements, the Panel finds the addition of these terms 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.

Accordingly, the Mark is recognizable within the Disputed Domain Name for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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 Disputed Domain Name is being used to host pay-per-click links to websites that may be competitors with Complainant. In addition, the links lead to websites that may divert interest from Complainant’s recruiting efforts.

Moreover, Complainant has alleged that the Disputed Domain Name presents a risk of phishing, and the composition of the Disputed Domain Name supports this allegation. Respondent has not responded to this allegation. The Panel may draw adverse inferences from Respondent failure to respond. Where Complainant makes a credible allegation that the Disputed Domain Name presents a significant threat that it was registered to support a fraudulent phishing scheme, the Panel deems it appropriate to draw an adverse inference against Respondent. Panels have held that the use of a domain name for illegal activity such as phishing 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.

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. Respondent never identified itself when registering the Disputed Domain Name, but instead supplied only an email address. This is tantamount to using false contact information to register the Disputed Domain Name and certainly evidences an intent to keep its identity secret. [WIPO Overview 3.0](#), section 3.6

In addition, Complainant's Mark is distinctive. There is no dictionary or descriptive meaning to "Genvivo." Consequently, in the absence of a response offering a benign explanation for Respondent's selection of this component of the Disputed Domain Name, the Panel finds, based on the balance of probabilities, that Respondent was aware of Complainant and its rights. The inclusion of "inc" mimics Complainant's domain name and is further evidence that Respondent intended that "Genvivo" to be understood as a company name and thereby supports a finding of targeting. The addition of "careers" is evidence that Respondent targeted a company (obviously Complainant) that would offer "career" opportunities. Based on the aggregate of this evidence, the Panel finds that Respondent registered the Disputed Domain Name in bad faith.

The Panel also finds that Respondent is using the Disputed Domain Name in bad faith. Respondent populates its website with pay-per-click links to potential competitors for Complainant's products, services and employment recruits. This is evidence that Respondent "intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant's mark." Policy paragraph 4(b)(iv).

The Panel also finds bad faith use based on the substantial risk that the Disputed Domain Name will be used in a fraudulent phishing scheme targeting people interested in careers with Complainant. Panels have held that the use of a domain name for phishing constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Based on the composition of the Disputed Domain Name, the Panel finds that the most likely intended use of the Disputed Domain Name was to support a phishing scheme. Indeed, the Disputed Domain Name mimics the email address that Complainant uses for recruiting purposes. For the reasons explained above with respect to the second element of the Policy, the Panel draws an adverse inference from Respondent's failure to respond to the allegation that Respondent registered the Disputed Domain Name with the intent to use it in a phishing scheme.

Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 <careersgenvivoinc.com> be transferred to Complainant.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: July 31, 2024