

ADMINISTRATIVE PANEL DECISION

CVS Pharmacy, Inc. v. jams karry
Case No. D2024-4824

1. The Parties

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.

Respondent is jams karry, United States.

2. The Domain Name and Registrar

The disputed domain name, <cvshealth.finance>, is registered with NameSilo, LLC ("Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center ("Center") on November 21, 2024. On November 22, 2024, the Center transmitted by email to Registrar a request for registrar verification in connection with the disputed domain name. The same day, Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from that in the Complaint (e.g., the Complaint identified "Redacted for Privacy/See Privacy Guardian.org" as Respondent). The Center sent an email communication to Complainant on November 25, 2024, providing the registrant and contact information disclosed by Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant amended the Complaint on November 25, 2024 adding "jams karry" as Respondent.

The Center verified that the Complaint and amendment satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy ("Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 18, 2024.

The Center appointed Debra J. Stanek as the sole panelist in this matter on January 2, 2025. 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 subsidiary of CVS Health Corporation, one of the largest corporations in the United States; their area of business is healthcare, operating pharmacies, and providing health services, among other things.

Complainant owns numerous registrations for its CVS and CVS HEALTH marks throughout the world, including:

- CVS for retail drugs, beauty aids, and sundries store services, registered September 7, 1971 (United States Reg. No. 919,941);
- CVS for a variety of personal care products (e.g., mouthwash, lotion), registered July 7, 1992 (United States Reg. No. 1,698,636);
- CVS HEALTH (disclaiming the term “health”) for, among other things, retail store and pharmacy services among other things, registered October 4, 2016 (United States Reg. No. 5,055,141);
- CVS HEALTH (disclaiming the term “health”) for a variety of personal care products (e.g., toothbrushes, oral hygiene products), registered February 13, 2018 (United States Reg. No. 5,402,010).

Complainant also owns and operates websites at the <cv.com> and <cvhealth.com> domain names.

The disputed domain name was registered October 22, 2024. At the time the Complaint was filed and as of the time of this decision, it resolves to a parking page showing pay-per-click links. According to the Complaint, Respondent has used the disputed domain name to create an email address used to send email messages.

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.

In particular:

- Complainant’s rights in the well-known CVS and CVS HEALTH marks long predate Respondent’s registration of the disputed domain name.
- Respondent used the disputed domain name to impersonate an employee of Complainant in a phishing scheme. Complainant provides a copy of an email message (forwarded to it by a third party), apparently sent from an email address using the disputed domain name seeking payment of an “outstanding” statement. Further, the email address uses the name of one of Complainant’s employees.
- A third party service that aggregates reports of viruses and other issues identifies three reports that the disputed domain name analyzes reports that some security vendors have reported the disputed domain name is associated with malicious activities, phishing, or spam.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To prevail under the Policy a complainant must prove, as to the domain name at issue, that: (a) it is identical or confusingly similar to a mark in which the complainant has rights, (b) respondent has no rights or legitimate interests in respect to it, and (c) it has been registered and is being used in bad faith. Policy, paragraph 4(a). A respondent's failure to respond does not automatically result in a finding for the complainant; the complainant continues to have the burden of establishing each element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions ("[WIPO Overview 3.0](#)"), section 4.3. The Panel may, however, draw appropriate inferences from the default. See Rules, paragraph 14(b).

As an initial matter, the Panel determines that "jams karry" is the appropriate Respondent. See [WIPO Overview 3.0](#), section 4.4.5 (in cases involving a privacy service, Panel has discretion to determine appropriate respondent).

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 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 each of the CVS and CVS HEALTH marks is reproduced within the disputed domain name (the lack of a space between "cvs" and "health", which is not possible to include in a domain name, is not relevant for these purposes). Accordingly, the disputed domain name is identical to the CVS HEALTH mark (and confusingly similar to the CVS mark) 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 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 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.

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.

That Panel shares the view of other panels that have concluded that use of a domain name for illegal activity, such as the impersonation and phishing shown here, does not 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.

Under the circumstances of this case, including the distinctiveness and fame of Complainant's CVS mark, Complainant's long-standing prior rights in the mark, the use of the disputed domain name in an email address apparently used as part of a phishing scheme or other deceptive activity, Respondent's failure to respond, and Respondent's having concealed his identity in the publicly-available WhoIs, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <cvshealth.finance> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: January 9, 2025