

ADMINISTRATIVE PANEL DECISION

Empower Clinic Services, L.L.C., d/b/a Empower Pharmacy v. Jefe Jefe
Case No. D2024-4890

1. The Parties

The Complainant is Empower Clinic Services, L.L.C., d/b/a Empower Pharmacy, United States of America ("US"), represented by Edgar Gonzalez, US.

The Respondent is Jefe Jefe, US.

2. The Domain Name and Registrar

The disputed domain name <empowerpharmacy.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 26, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 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 amended Complaint on December 3, 2024.

The Center verified that the Complaint together with the amended 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 December 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 27, 2024.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on January 7, 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

The Complainant is a PCAB®-accredited 503A compounding pharmacy and has a 503B outsourcing facility designed with the FDA's current good manufacturing practices (CGMPs) in mind. The Complainant registered and has been using its domain name since its establishment. The Complainant operates a website at the domain name <empowerpharmacy.com> and a Twitter account at @EmpowerPharmacy.

The Complainant is the owner of the following US Trademark Registrations:

EMPOWER PHARMACY No. 5021918, registered August 16, 2016

EMPOWER PHARMACY No. 5031072, registered August 30, 2016

The disputed domain name was registered through Hostinger Operations, UAB on October 14, 2024. In October 2024, the Complainant became aware that the Respondent was using the disputed domain name to perpetuate fraud through an illegitimate website that passes itself off as belonging to or being affiliated with the Complainant.

The disputed domain name resolves to a functioning website, and purportedly allows a site visitor to add weight loss medications to their cart. The website at the disputed domain name displays the registered street address of the Complainant.

The Respondent registered the disputed domain name using a privacy service.

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 Complainant's trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the 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 the 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.

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 mark is reproduced within the disputed domain name with the addition of an extra “r” in the word “pharmacy.” Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9 (misspellings).

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.

Instead, the record shows the Respondent has been using the disputed domain name to target unsuspecting Internet users who believe that they are dealing with the Complainant rather than the Respondent. The disputed domain name incorporates the Complainant’s mark in its entirety, then subtly modifies it by misspelling and by adding an extra “r” within the term “pharmacy”. This is a form of typosquatting, by which a respondent deliberately introduces slight deviations into a mark to deceive consumers for the respondent’s commercial gain. Here, the record shows that the Respondent set up a deceptive website at the disputed domain name, prominently displaying the Complainant’s mark, potentially to take financial information from deceived website visitors who mistakenly believed they were being directed to the Complainant’s website.

Panels have held that the use of a domain name for fraudulent activity, such as phishing, impersonation/passing off, or other types of fraud 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.

In the present case, the Panel notes that the record shows the Respondent was aware of the Complainant's trademark at the time of registering the disputed domain name, and has registered and used the disputed domain name to target unsuspecting customers who believe that they are dealing with the Complainant rather than the Respondent. The disputed domain name incorporates the Complainant's mark in its entirety, then subtly modifies it by misspelling and by adding an extra "r" within the term "pharmacy". This is a form of typosquatting, by which a respondent deliberately introduces slight deviations into a mark to deceive consumers for the respondent's commercial gain. Here, the record shows that the Respondent set up a deceptive website at the disputed domain name prominently displaying the Complainant's mark, potentially to take financial information from deceived website visitors who mistakenly believed they were being directed to the Complainant's website. The record shows that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Panels have held that the use of a domain name for fraudulent activity, such as phishing, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <empowerpharmacy.com> be transferred to the Complainant.

/Lynda J. Zadra-Symes/

Lynda J. Zadra-Symes

Sole Panelist

Date: January 21, 2025