

ADMINISTRATIVE PANEL DECISION

Modernatx, Inc. v. Preet Noor
Case No. D2024-5290

1. The Parties

Complainant is Modernatx, Inc., United States of America (“United States”), internally represented.

Respondent is Preet Noor, United States.

2. The Domain Name and Registrar

The disputed domain name <modernacharitablefoundation.org> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on December 24, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 29, 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 Respondent of the Complaint, and the proceedings commenced on January 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 24, 2025.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on January 30, 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, Modernatx, Inc., is a developer of mRNA medicines to treat and prevent diseases, including a popular COVID-19 vaccine that was launched in 2021. Complainant owns and uses the mark MODERNA in connection with its medicines and owns a number of trademark registrations for the MODERNA mark around the world. Of particular relevance in this proceeding, Complainant owns several registrations for its MODERNA mark in the United States, both as a word mark and in a stylized version (Registration Nos. 4659803, 4811834, 5543197 and 4675783, the earliest of which issued to registration on December 23, 2014. Complainant also owns and uses the domain name <modernatx.com> for a website that provides information concerning Complainant and its medicines. Lastly, Complainant launched a nonprofit organization that promotes public health and scientific education and innovation in 2022 under the name Moderna Charitable Foundation. Complainant also owns the domain name <modernacharitablefoundation.com> which redirects to Complainant's website at <modernatx.com>.

Respondent may be based in the United States, although that is not altogether clear given that the address used by Respondent is actually the address for Complainant in Cambridge, Massachusetts. The disputed domain name was registered on December 2, 2024, and does not appear to have been used, to date, for an active website or page.

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 "under the MODERNA name Complainant has become the world's most admired, influential, and innovative vaccine company."

Complainant asserts that the disputed domain name is confusingly similar to its MODERNA mark as it fully incorporates the MODERNA mark with the non-distinguishing words "charitable foundation."

Complainant maintains that Respondent does not have legitimate interests in the disputed domain name as Respondent (i) has no license of authorization to register or use Complainant's famous MODERNA mark, (ii) is not commonly known by the MODERNA name and mark, and (iii) has not made any bona fide offering of goods or services with the disputed domain name, and (iv) has not made a legitimate noncommercial or fair use of the disputed domain name.

Lastly, Complainant argues that Respondent has registered and used the disputed domain name in bad faith to "capitalize on the fame of the MODERNA mark" and to impersonate Complainant and mislead consumers for Respondent's benefit. Complainant further argues that Respondent's bad faith is established by Respondent's use of false contact information when registering the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in its MODERNA mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Here, the MODERNA mark is fully incorporated at the head of the disputed domain name. Although the addition of the descriptive words "charitable foundation" at the tail of the disputed domain name may bear on the assessment of the second and third elements, the Panel finds the addition of such words does not prevent a finding of confusing similarity between the disputed domain name and the MODERNA mark for 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 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 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.

Respondent's registration of the disputed domain name is clearly based on the MODERNA mark and Complainant's Moderna Charitable Foundation name and does not seem coincidental. Needless to say, the disputed domain name as constituted carries a high degree of implied affiliation and is likely to be mistakenly seen by consumers as related to Complainant and its charitable foundation. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#) at section 2.5.1.

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

C. Registered and Used in Bad Faith

The Panel notes that, for 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 view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain name, which is clearly based on Complainant's MODERNA mark has been done opportunistically and in bad faith for the benefit or profit of Respondent. The disputed domain name on its face suggests a connection to Complainant and its charitable foundation and was registered well after Complainant had established rights in its MODERNA mark. Moreover, the fact that Respondent has registered the disputed domain using Complainant's address in Cambridge, Massachusetts and Complainant's telephone number, but with the name of a nonexistent employee of Complainant and an email address unrelated to Complainant, suggests that Respondent may have done so for an illicit purpose.

In all, Respondent's actions make it more likely than not that Respondent was fully aware of Complainant and its MODERNA name and mark (and charitable foundation) when it registered the disputed domain name for Respondent's benefit.

The Panel thus 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 <modernacharitablefoundation.org> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: February 13, 2025