

ADMINISTRATIVE PANEL DECISION

Modernatx, Inc. v. odugbesan opeoluwa, Tulit Spark
Case No. D2025-4102

1. The Parties

The Complainant is Modernatx, Inc., United States of America ("United States"), represented internally.

The Respondent is odugbesan opeoluwa, Tulit Spark, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <modernallc.org> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 7, 2025. On October 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 9, 2025, 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 (Name Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 2025, 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 amendment to the Complaint on October 10, 2025.

The Center verified that the Complaint together with the amendment to 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 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 3, 2025. The Respondent sent an email communication to the Center on November 11, 2025.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on November 19, 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, Modernatx, Inc., is a developer of mRNA medicines to treat and prevent diseases, including a popular COVID-19 vaccine that was launched in 2021.

The Complainant owns and uses the mark MODERNA. The 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.

The Complainant also owns and uses the domain name <modernatx.com> for a website that provides information concerning the Complainant and its medicines.

The disputed domain name was registered on August 9, 2025, and the Complainant claims that it has been used to send a fraudulent email impersonating the Complainant.

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.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However the Respondent sent an email to the Center on November 11, 2025, stating: "Hello, This email is well received. Kindly cancel the disputed domain name. Thank you. Best regards".

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

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.

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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of a generic term like “LLC” (which LLC stands for Limited Liability Company) 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.

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.

Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation/passing off 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.

In the present case, the Panel notes that

- the disputed domain name was registered on August 9, 2025 – more than 10 years after the Complainant’s first registration for the MODERNA trademark in the United States and some 15 years after the Complainant registered the domain name <modernatx.com>;
- according to the Complainant, the disputed domain name was used to impersonate the Complainant’s employees while making bogus job offers to and scamming money from unsuspecting job seekers, actions as fraud and identity theft constitutes bad faith use under the Policy; these statements has not been denied by the Respondent;
- the Respondent is in default and has not given any explanation on the registration of the disputed domain name.

The Panel agrees with the Complainant that its MODERNA trademark enjoys substantial reputation, especially due to the massive campaign on the Complainant's COVID-19 vaccine. The registration of a domain name, confusingly similar to a third party's well-known trademark, without authorization, or rights or legitimate interests in the domain name, can create a presumption of registration in bad faith by itself (*Moderna, Inc., ModernaTX, Inc. v. Super Privacy Service LTD c/o Dynadot / Shawn Wang*, WIPO Case No. [D2022-2125](#)).

In view of the Respondent's actions, and failure to appear in this proceeding, it is easy to infer that the Respondent's registration and use of the disputed domain name, which is clearly based on the Complainant's MODERNA mark has been done opportunistically and in bad faith for the benefit or profit of the Respondent.

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

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.

Panels have held that the use of a domain name for illegal activity, here phishing and impersonation/passing off 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 <modernallc.org> be transferred to the Complainant

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: December 1, 2025