

ADMINISTRATIVE PANEL DECISION

Pfizer Inc. v. Wes Young, Dr. Wes Young Trust
Case No. D2023-1222

1. The Parties

The Complainant is Pfizer Inc., United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is Wes Young, Dr. Wes Young Trust, United States.

2. The Domain Name and Registrar

The disputed domain name <pfizervax.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2023. On March 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 2023, 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 (Registration private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 2023 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 March 31, 2023.

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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 1, 2023.

The Center appointed Ezgi Baklacı Gülkökar as the sole panelist in this matter on May 8, 2023. 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 Pfizer Inc., (Pfizer) is the owner of the PFIZER mark on account of its use of the PFIZER tradename and mark for over 150 years. The Complainant holds numerous trademark registrations for the PFIZER mark in the United States and around the world, according to the extract provided at Annexes 4 and 5, such as the United States Trademark registration No. 626,088 registered on May 1, 1956.

The Complainant also contends that by the virtue of extensive sales and advertising throughout the world by products and services, PFIZER mark is well-known and that numerous prior UDRP decisions have recognized the Complainant's well-established rights on the term "pfizer". Further, the Complainant also owns the domain name <pfizer.com>, of which is being used as early as 1996.

The disputed domain name was registered on November 11, 2020. At the time of filing the Complaint, the disputed domain name resolved to a Registrar parking page.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name is confusingly similar to PFIZER trademarks, which the Complainant holds numerous registrations.

The Complainant also argues that the addition of term "vax" after the trademark PFIZER, which is a common abbreviation of "vaccine" does not prevent the disputed domain name from being confusing similar to the Complainant's trademark.

Rights or legitimate interests

The Complainant argues that the Respondent has no affiliation with the Complainant and the Complainant has not given the Respondent permission to register and/or use the Complainant's trademarks in any manner.

In addition, the Complainant argues that the Respondent is not known by the disputed domain name and the Complainant submits that the Respondent is not authorized to use the Complainant's trademark, nor the Respondent is the licensee of the mark.

Furthermore, the Respondent has neither made use of the domain name nor engaged in any demonstrable preparations to use it in connection with a *bona fide* offering of goods or services, as the domain name is not being used for noncommercial or fair use purposes.

The disputed domain name was registered and used in bad faith.

The Complainant initially argues that the Respondent's lack of rights or legitimate interest in the use of the disputed domain name renders the bad faith registration examination unnecessary.

Further, the Complainant submits that it is clear that the Respondent had knowledge of the Complainant's well-known PFIZER mark prior to the registration of the disputed domain name.

The Complainant further asserts that the disputed domain name can only be taken as intending to cause confusion among Internet users as to the source of the same, especially considering that the term "vax" added to the disputed domain name to form the term "PfizerVax" as a direct reference to the Complainant's vaccine.

It has further argued by the Complainant that the Respondent has knowingly registered the disputed domain name in order to engage opportunistic cybersquatting and such passive behavior constitutes bad faith registration and use.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks 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.

A. Identical or Confusingly Similar

Complainant has demonstrated that it has well-established rights in the PFIZER trademark. The disputed domain name <pfizervax.com> consists of the registered PFIZER trademark belonging to the Complainant with the additional term "vax" at the end. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will be considered confusingly similar (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)", section 1.7).

Moreover, the Panel finds the additional word element "vax", which is a commonly used abbreviation for vaccine, does not prevent a finding of confusing similarity. In similar cases, prior panels considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity ("[WIPO Overview 3.0](#)", section 1.8).

The Panel is of the view that the disputed domain name is confusingly similar to the Complainant's trademarks and the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the Complainant, previous UDRP panels have recognized that proving a Respondent that it lacks rights or legitimate interests in a domain name may result in the often impossible

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. 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) (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#))

The Panel notes that there is no evidence showing that the Respondent holds any rights for PFIZER trademarks. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant’s PFIZER trademark.

The case file also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. Further, the Panel notes that there is no evidence of the Respondent’s use of, or preparation to use the disputed domain name; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

Furthermore, the Panel finds that the nature of the disputed domain name is inherently misleading, as it comprises the Complainant’s trademark PFIZER in its entirety combined with the term “vax” (abbreviation for the term “vaccine”) referring to Complainant’s business, and as such, carries a risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1).

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the disputed domain name was registered, the Respondent more likely than not was aware of the trademarks PFIZER as the Complainant’s trademark registrations as well as its domain name <pfizer.com> predating the registration date of the disputed domain name. The Panel notes from the Complaint and annexes, the extensive use and worldwide registrations of the PFIZER trademark. According to the evidence submitted by the Complainant, the Panel finds that the Respondent knew or should have known about the Complainant’s rights as such information can be reached by a quick online search; see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

In addition, previous UDRP panels have held that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). The disputed domain name is so obviously connected with the Complainant and its products (especially considering that the addition of the term “vax”, which is associate to “vaccine”, related to the Complainant’s activity) that already its very use by the Respondent, which has no connection with the Complainant, clearly suggests the disputed domain name has been selected with a deliberate intent to create an impression of an association with the Complainant (see *General Motors LLC v. desgate.*, WIPO Case No. [D2012-0451](#))

The Panel notes that the disputed domain name resolves to a website that displayed the text “pfizervax.com is parked free” and “Get This Domain” according to the documentation in the Complaint. In this regard, the Panel finds that this type of use is equivalent to passive holding. From the inception of the UDRP, panelists

have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

See section 3.3 of the [WIPO Overview 3.0](#). In this case noting (i) the degree of distinctiveness and reputation of the Complainant's PFIZER trademark, (ii) the failure of the respondent to submit a response, (iii) the Respondents concealing their identity, and (iv) the implausibility of any good faith use to which the inherently misleading disputed domain names may be put.

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name has been registered and used in bad faith by the Respondent.

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 <pfizervax.com> be transferred to the Complainant.

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: May 17, 2023