

ADMINISTRATIVE PANEL DECISION

CVS Pharmacy, Inc. v. john, ourice

Case No. D2022-0548

1. The Parties

The Complainant is CVS Pharmacy, Inc., United States of America (“United States” or “U.S.”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is john, ourice, United States.

2. The Domain Name and Registrar

The disputed domain name <cvshhealthpharma.com> (“Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2022. On February 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 17, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 16, 2022.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on March 31, 2022. 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 health innovation company in the United States, with approximately 300,000 workers in more than 9,900 retail locations and approximately 1,100 walk-in medical clinics in 49 states, the District of Columbia, and Puerto Rico, serving 4.5 million customers daily.

The Complainant ranks as number 3 on the “Fortune 500” list of America’s largest corporations.

The Complainant is the registrant of and uses the domain names <cvs.com> (registered January 30, 1996), <cvshealth.com> (registered April 15, 2005), and <cvshealthpharmacy.com> (registered September 24, 2014).

The Disputed Domain Name was registered on January 20, 2022.

The Disputed Domain Name in connection with a website which prominently uses the CVS Trademarks and also says it “is a supplier of various brands of medications and health products” and that it “also help[s] you get prescription medications, especially for pain management, without the need to ask your doctor for a prescription.”

5. Parties’ Contentions

A. Complainant

The Complainant is the owner of at least 520 trademark registrations in at least 27 countries or jurisdictions worldwide for marks that consist of or contain “CVS” or “CVS HEALTH” or “CVS PHARMACY.”

The Complainant is also the owner of U.S. Reg. No. 5,101,943, registered December 13, 2016) for:



(“CVS Logo”)

The Complainant is also the owner for the following United States federal registrations:

Reg. No. 919,941 for CVS (first used May 9, 1963; registered September 7, 1971);

Reg. No. 1,698,636 for CVS (first used 1974; registered July 7, 1992);

Reg. No. 1,904,058 for CVS (first used April 28, 1992; registered July 11, 1995);

Reg. No. 5,055,141 for CVS HEALTH (first used October 15, 2014; registered October 4, 2016);

Reg. No. 5,402,010 for CVS HEALTH (first used November 30, 2015; registered February 13, 2018);

Reg. No. 2,048,916 for CVS/PHARMACY (first used 1983; registered April 1, 1997);

Reg. No. 3,211,443 for CVS/PHARMACY (first used 1983; registered February 20, 2007).

The Top-Level domain “.com” “is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

The Disputed Domain Name contains the CVS Trademark in its entirety and the overall impression of the designation of the Disputed Domain Name is one of being connected to the trademark of Complainant.

The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the CVS Trademark in any manner.

By using the Disputed Domain Name in connection with a website that falsely appears to be a website for, or otherwise associated with, the Complainant – by including the Complainant’s CVS Logo; photos of pharmacists and prescription drug products; and text that says the Respondent “is a supplier of various brands of medications and health products” and that it “also help[s] you get prescription medications, especially for pain management, without the need to ask your doctor for a prescription” (Annex 9) – the Respondent has failed to create a *bona fide* offering of goods or services.

To the Complainant’s knowledge, the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed Domain Name.

By using the Disputed Domain Name in connection with a website that falsely appears to be a website for, or otherwise associated with, the Complainant – by including the Complainant’s CVS Logo; photos of pharmacists and prescription drug products; and text that says Respondent “is a supplier of various brands of medications and health products” and that it “also help[s] you get prescription medications, especially for pain management, without the need to ask your doctor for a prescription” (Annex 9) – the Respondent’s actions are clearly not legitimate and clearly are misleading.

Plus, by apparently using the Disputed Domain Name to offer for sale “health products” and “pain management” medications (Annex 9), the Respondent has acted with the intent of generating revenue for itself – that is, in a commercial manner – and cannot establish rights or legitimate interests.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in its CVS, CVS HEALTH, and CVS/PHARMACY, and CVS Logo Marks (“CVS Marks”), and has shown that no other entity has rights in or uses the CVS Marks. The CVS Marks are recognizable within the Disputed Domain Name.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name years after the Complainant had begun using its famous CVS Marks indicates the Respondent sought to piggyback on the CVS Marks for illegitimate reasons possibly to sell counterfeit drugs, or at least purports to offer prescription pharmaceuticals without the need for said prescriptions. The use of a disputed domain name further illegal activity can never confer rights or legitimate interests upon a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

Further, the Disputed Domain Name consists of the Complainant's CVS Marks and the descriptive shorthand "pharma" for "pharmacy", which is likely to give the false impression of association or endorsement by the Complainant.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered many years after the Complainant first registered and used its famous CVS trademark. The evidence on the record provided by the Complainant is sufficient to satisfy the Panel that, at the time the disputed domain name was registered, the Respondent undoubtedly knew of the Complainant's CVS mark, and knew that it had no rights or legitimate interests in the disputed domain name. There is no non-benign reason for the Respondent to have registered a domain name containing the CVS Marks and the term "pharma".

Further, the use of the disputed domain name by the Respondent is in bad faith. The disputed domain name resolves to a website called "CVS Health" that claims to offer for sale a variety of prescription drugs at discounted prices and without the need for a prescription. The actions of the Respondent in attempting to sell prescription drugs can result in the public being misled as to the accuracy of the information provided or the origin, sponsorship, or association of the products offered or sold on the Respondent's websites, this is clearly use in bad faith. See *Pfizer Inc. v. jg a/k/a Josh Green*, WIPO Case No. [D2004-0784](#).

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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 <cvshealthpharma.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: April 15, 2022