

ADMINISTRATIVE PANEL DECISION

Sanofi, Genzyme Corporation v. Contact Privacy Inc. Customer 0163795664 /
Leonard Coldwell, Champys Reformhaus?
Case No. D2022-0905

1. The Parties

The First Complainant is Sanofi, France, and the Second Complainant is Genzyme Corporation, United States of America (“United States”), represented by Selarl Marchais & Associés, France.

The Respondent is Contact Privacy Inc. Customer 0163795664, Canada / Leonard Coldwell, Champys Reformhaus?, United States.

2. The Domain Name and Registrar

The disputed domain name <genzym.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on March 17, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on March 18, 2022.

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 March 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2022.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on May 6, 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 First Complainant is a French multinational pharmaceutical company headquartered in Paris. It has operations in more than 100 countries and employs 100,000 people. Its consolidated net sales in 2020 amounted to EUR 34.46 billion. The First Complainant is engaged in research and development, manufacturing and marketing of pharmaceutical products for sale, principally in the prescription market, and also develops over-the-counter medication.

The Second Complainant is a biotechnology company founded in 1981 in the United States. It is owned by the First Complainant. In 2010, the Second Complainant was the world's third-largest biotechnology company, employing more than 11,000 people in 65 countries.

The Second Complainant is the owner of the following trademarks (the "GENZYME trademark"), among others:

- the United States trademark registration No. 1859429 for GENZYME, registered on October 25, 1994, for pharmaceutical products in International Class 5, and claiming first use in commerce since November 16, 1987;
- the European Union trademark registration No. 002348852 for GENZYME, registered on April 17, 2003, for goods and services in International Classes 1, 5 and 42;
- Canadian trademark registration No. TMA440327 for GENZYME, registered on March 10, 1995 for pharmaceutical products in International Class 5.

For convenience, the First and Second Complainants will hereafter be referred to individually and/or collectively as the Complainant.

The Complainant is the owner of domain names incorporating the GENZYME trademark, including the following ones:

<genzyme.fr> created on March 19, 2003
<genzyme.cn> created on June 11, 2004
<genzyme.com> created on August 14, 1996
<genzyme.net> created on August 5, 2000
<genzyme.org> created on August 5, 2000
<genzyme.us> created on August 21, 2008

The disputed domain name was created on February 21, 2022 and automatically redirects Internet users to the external commercial website under the domain name <champysreformhaus.com>.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant asserts that the GENZYME trademark is recognizable within the disputed domain name and incorporation of a well-known trademark may be sufficient to establish that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The omission of the letter "e" in the disputed domain name is insufficient to alleviate the likelihood of confusion between the Complainant's GENZYME

trademark and the disputed domain name.

Therefore, the Complainant contends that the disputed domain name and the GENZYME trademark are confusingly similar.

No rights or legitimate Interests

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registrations for the GENZYME trademark.

The Complainant has not found any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or organization prior to the date on which he registered the disputed domain name.

The Complainant contends that the Respondent's use of the Complainant's GENZYME trademark in the disputed domain name to redirect users to the external commercial website, which is under the control of the Respondent, cannot support a claim to rights or legitimate interests.

Registered and used in bad faith

The Complainant submits that the Complainant and its GENZYME trademark are so widely known that it is inconceivable that the Respondent was not aware of the Complainant or its earlier trademark rights. Thus, it is highly likely that the Respondent was aware of the GENZYME trademark long prior to registering the disputed domain name.

The Complainant asserts that the disputed domain name has been registered only for the purpose of unfairly attracting the Complainant's consumers to another domain name to which it automatically redirects, namely <champysreformhaus.com>. Respectively, the disputed domain name was registered for the sole purpose of misleadingly diverting consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by or affiliated with the Complainant and its business; or that the Respondent's activities are approved or endorsed by the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue - Consolidation of Multiple Complainants

In assessing whether a complaint filed by multiple complainants can be brought against a single respondent, panels typically consider whether (1) the complainants have a specific common grievance against the respondent, and (ii) it would be equitable and procedurally efficient to permit the consolidation. See section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Here, on the evidence presented, none of which is contested by the Respondent, consolidation is proper. Genzyme Corporation is owned by Sanofi and both parties have a common grievance against the Respondent's registration and use of the disputed domain name, allowing consolidation in this instance would be procedurally efficient.

6.2. Substantive Discussion

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it

deems applicable.”

Considering that the Respondent did not reply to the Complainant’s contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted by the Complainant, and in accordance with the Policy and the Rules.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the GENZYME trademark has been registered internationally, well before the disputed domain name was registered by the Respondent. Thus, the Panel finds that the Complainant’s rights in the GENZYME trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to the Complainant’s GENZYME trademark.

It is well established that domain names, which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 (“Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ... (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersing of other terms or numbers”). See *e.g. Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) (“This is clearly a “typosquatting” case where the disputed domain name is a slight misspelling of a registered trademark to divert Internet traffic. In fact, the [...] domain name comprises the Complainant’s trademark [...] with a single misspelling of an element of the mark: a double consonant “S” at the end”).

The only difference between the Complaint’s GENZYME trademark and the disputed domain name is the omission of the letter “e” in the disputed domain name, the rest being identical. Respectively, the panel finds that this difference is negligible, and not likely to be perceived by the usual reader on Internet.

Such an insignificant modification to a trademark is commonly referred to as “typosquatting” as such conduct seeks to wrongfully take advantage of errors by users in typing domain names into their web browser’s location bar. See *Six Continents Hotels, Inc. v. null John Zuccarini d/b/a Country Walk*, WIPO Case No. [D2003-0161](#).

Accordingly, the Panel finds that the Complainant’s GENZYME trademark is clearly recognizable within the disputed domain name and the disputed domain name clearly constitutes an attempt at typosquatting, by the Respondent.

The generic Top-Level-Domain (“gTLD”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#). Accordingly, the Panel finds that the disputed domain name is confusingly similar to the GENZYME trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its GENZYME trademark. There is no actual or contemplated *bona fide* or legitimate use of the disputed domain name.

Based on the case records, the Panel has established that the Respondent has not been commonly known by or associated with the disputed domain name, as the Whois records refer to "Champys Reformhaus?" as the name of the Respondent's organization, and there is no similarity or association between the name of the Respondent and the disputed domain name, which might demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

The Respondent did not demonstrate, prior to the notice of the dispute, any use of the disputed domain name in connection with a *bona fide* offering of goods or services.

On the contrary, as the Complainant demonstrated, the disputed domain name redirects to the website "champysreformhaus.com", which is the commercial website of the Respondent's company through which naturopathic products are allegedly offered for sale. The Respondent's use of the Complainant's GENZYME trademark to redirect users to the Respondent's own site would not support a claim to rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.5.3).

Insofar as the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests to the disputed domain name, this shifts the burden of production to the Respondent to show evidence that it has rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#) (*Spencer Douglass, MGA v. Bail Yes Bonding*, WIPO Case No. [D2004-0261](#), and *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#)). The Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the disputed domain name.

In view of the un rebutted *prima facie* case established by the Complainant, and the absence of any evidence supporting any rights or legitimate interests in 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

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location".

According to section 3.1.4 of the [WIPO Overview 3.0](#), panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for

the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant's (or a competitor's) website, and (vi) absence of any conceivable good faith use.

Additional bad faith consideration factors include the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term). See section 3.2.1. of the [WIPO Overview 3.0](#).

Thus, bad faith registration can be found where the respondents "knew or should have known" of the complainant's trademark rights and nevertheless registered a domain name in which they had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#).

The Complainant has ascertained its rights over the GENZYME trademark in the United States, where the Respondent has declared to have its domicile, and in several jurisdictions. The Respondent has registered the disputed domain name many years after the registration of the GENZYME trademark and of the Complainant's domain names, and after the Second Complainant started using it for its business. In view of this and of the scope of protection of the GENZYME trademark and of the global extent of the jurisdictions in which it is registered and used, the Panel is of the opinion that it is highly likely that the Respondent knew or should have known about the Complainant's trademark.

Additionally, the disputed domain name consists of an intentional misspelling of the Complainant's trademark, which is indicative of "typosquatting". Previous UDRP panels have found that typosquatting is inherently parasitic and of itself evidence of bad faith. See, e.g., *National Association of Professional Baseball Leagues, Inc., d/b/a Minor League Baseball v. Jon Zuccarini*, WIPO Case No. [D2002-1011](#).

The Complainant submitted evidence showing that the disputed domain name has been used under a "bait and switch" model, and that this is a case where the Respondent attempts to take unfair advantage of the confusing similarity of the disputed domain name with the Complainant's trademark. Internet users looking for GENZYME goods that come across the disputed domain name are redirected to a website linked to the domain name <champysreformhaus.com>. Said Respondent-owned website contains offers naturopathic products for sale. This conduct translates into bad faith use of the disputed domain name (see *Justice for Children v. R. neetso / Robert W. O'Steen*, WIPO Case No. [D2004-0175](#); *Joseph Dello Russo, M.D. v. Michelle Guillaumi*, WIPO Case No. [D2006-1627](#)).

Taking the above into account, and in the absence of any evidence to the contrary, the Panel is satisfied that it is more likely than not that the Respondent was aware of the Complainants' GENZYME trademark and of its goodwill when it registered the disputed domain name, it can be deduced that the Respondent has intentionally attempted to attract Internet users to its website, for commercial gain, creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the biopharma patent information services offered by the Respondent, which constitutes bad faith use under paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel holds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <genzym.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: May 20, 2022