

ADMINISTRATIVE PANEL DECISION

Alnylam Pharmaceuticals Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Darren Nicholas, Thermo Fisher Scientific
Case No. D2022-1797

1. The Parties

The Complainant is Alnylam Pharmaceuticals Inc., United States of America (“United States”), represented by Demys Limited, United Kingdom.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Darren Nicholas, Thermo Fisher Scientific, United States.

2. The Domain Name and Registrar

The disputed domain name <alnylampharma.org> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 20, 2022, 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 May 20, 2022.

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 May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. The Respondent did not submit any response. Accordingly,

the Center notified the Respondent's default on June 20, 2022.

The Center appointed Michelle Brownlee as the sole panelist in this matter on June 28, 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 owns the following registrations for the ALNYLAM trademark:

United States Trademark Registration Number 2779537 for ALNYLAM, registered on November 4, 2003, for services in International class 42;

United Kingdom Trade Mark Registration Number 902949394 for ALNYLAM, registered on November 15, 2004, for goods in international class 5 and services in International classes 42 and 44;

European Union Trade Mark Registration Number 2949394 for ALNYLAM, registered on November 15, 2004, for goods in international class 5 and services in International classes 42 and 44.

The Domain Name was registered on January 31, 2022. The Domain Name resolves to a parked page that displays the Domain Name and states "This domain is registered at namecheap". The page has links entitled "Biotech Companies", "Pharmaceutical Manufacturing Company", "Pharma Company", and "Pharmaceutical Company", among others.

5. Parties' Contentions

A. Complainant

The Complainant states that it is a biopharmaceutical company founded in 2002 with activities in the discovery, development, and marketing of therapeutics for genetic diseases. The Complainant's shares have been traded on the Nasdaq stock exchange since 2004. The Complainant states that it has a commercial presence in 30 countries and employs over 1,800 people worldwide. The Complainant provided a printout from the Forbes website that shows that the Complainant was included in the Forbes list of the "100 Most Innovative Growth Companies" in 2016 and in the Forbes Global 2000 list of the top 2,000 public companies in the world based on sales, profit, assets and market value in 2020. The Complainant contends that it is well known around the world. The Complainant presented evidence that it has more than 123,000 followers on the LinkedIn social media and more than 15,000 followers on Twitter.

The Complainant states that its unique name, Alnylam, is derived from the central star "Alnilam" in the constellation of Orion's belt. The Complainant presented evidence that it is operating a website using the domain name <alnylam.com>.

The Complainant argues that the Domain Name is confusingly similar to its ALNYLAM mark because it is identical except that the word "pharma" has been added, and the addition of a term related to the Complainant's business is likely to increase the potential for confusion. The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith. The Complainant presented evidence that the Domain Name resolves to a parked page that appears to generate pay-per-click revenue that includes links entitled "Biotech Companies", "Pharmaceutical Manufacturing Company", "Pharma Company", and "Pharmaceutical Company". The Complainant also presented evidence that the Domain Name is configured with MX records so that it can be used in connection with email communications. The Complainant argues that the Respondent's use of a privacy service to conceal identity and failure to respond to the Complainant's

communications provide additional evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of a domain name, a complainant must prove the following three elements:

- (i) the 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 domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns rights in the ALNYLAM trademark. The addition of the word "pharma" in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant's ALNYLAM trademark. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Under these circumstances, the Panel finds that the Domain Name is confusingly similar to the Complainant's ALNYLAM trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides that a respondent can demonstrate rights to or legitimate interests in a domain name by demonstrating one of the following facts:

- (i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name at issue in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark at issue.

In this case, the Complainant has put forward a *prima facie* case and no evidence has been presented that the Respondent used or made demonstrable preparations to use the Domain Name in connection with a *bona fide* offering of goods or services; that the Respondent is commonly known by the Domain Name; that the Respondent is making a legitimate noncommercial or fair use of the Domain Name; or in any other way refuted the Complainant's *prima facie* case. The Complainant presented evidence that the Respondent is using the Domain Name to direct Internet users to a parked page that appears to generate pay-per-click revenue with links with titles that are related to the Complainant's business, such as "Biotech Companies", "Pharmaceutical Manufacturing Company", "Pharma Company", and "Pharmaceutical Company". The Respondent has not refuted these allegations and evidence. Under the circumstances, there is no basis to find that the Respondent has demonstrated rights to or legitimate interests in the Domain Name.

Accordingly, the Panel finds that the Complainant has established this element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances are evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name at issue primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location.

The Complainant's rights in its ALNYLAM trademark predate the registration of the Domain Name by more than 18 years, and the Complainant has presented evidence regarding the well-known nature of its trademark. The Respondent has not refuted the Complainant's allegations and evidence. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar 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 Panel finds that the Complainant has established that the Respondent registered the Domain Name in bad faith.

The Complainant has established bad faith under paragraph 4(b)(iv) of the Policy. The Domain Name is being used to direct Internet users to a parked page by creating a likelihood of confusion with the Complainant's mark. While it is possible that the Respondent chose the links that are on the parked page, it seems likely that the Registrar is the party that has generated the content for the page and that might be the recipient of any pay-per-click revenue that is earned. Nevertheless, panels have found bad faith in similar circumstances on the theory that domain name registrants are responsible for the content of websites associated with their domain names. See [WIPO Overview 3.0](#), section 3.5; *McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Rolex Watch U.S.A., Inc. v. Vadim Krivitsky*, WIPO Case No. [D2008-0396](#). There is further evidence of bad faith in the Respondent's configuration of the Domain Name with MX records as it may be used with email communications.

Under these circumstances, the Panel finds that the Respondent has registered and is using the Domain Name 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 Domain Name, <alnylampharma.org> be transferred to the Complainant.

/Michelle Brownlee/

Michelle Brownlee

Sole Panelist

Date: July 12, 2022