

## **ADMINISTRATIVE PANEL DECISION**

Amgen, Inc. v. Privacy service provided by Withheld for Privacy ehf / Johnson Kufor, Ryker

Case No. D2022-2061

### **1. The Parties**

The Complainant is Amgen, Inc., United States of America (“United States”), represented by Snell & Wilmer, LLP, United States.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Johnson Kufor, Ryker, United States.

### **2. The Domain Name and Registrar**

The Disputed Domain Name <myamgeninc.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2022. On June 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 9, 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 Complainant on June 9, 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 June 9, 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 June 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2022. The Respondent did not submit any response. However, an email was received from a third party claiming identity theft on June 24, 2022. Accordingly, the Center notified the Parties that it would proceed with the Panel Appointment Process on July 1, 2022.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on July 14, 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 global biopharmaceuticals company focused on research, innovation, and treatment in the areas of cardiovascular disease, oncology, bone health, neuroscience, nephrology, and inflammation. The Complainant offers a variety of goods and services under the AMGEN marks since 1981.

The Complainant operates in approximately 100 countries, including the United States and Canada, and employs over 20,000 people worldwide. In 2020, the Complainant earned over USD 25 billion in worldwide revenue from its AMGEN-branded goods and services.

The Complainant owns the following United States trademark registrations:

- AMGEN Reg. No. 1,621,967, registered November 13, 1990;
- **AMGEN** Reg No. 2,170,735, registered July 7, 1998;
- AMGEN Reg. No. 3,226,919, registered April 10, 2007; and
- AMGEN Reg. No. 3,921,146, registered February 15, 2011.

The Complainant registered its <amgen.com> domain name on July 27, 1990.

The Disputed Domain Name was registered on January 14, 2022.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant has invested millions of dollars advertising and promoting its goods and services under its AMGEN marks throughout the United States and around the world. As a result, Complainant's AMGEN marks have acquired goodwill and recognition, and the public associates AMGEN branded goods and services exclusively with the Complainant. The Complainant owns common law rights around the world in its AMGEN marks.

The Complainant is the only owner of registrations for AMGEN; no third party owns a registered mark for AMGEN for any type of goods or services. The Complainant also owns numerous registrations for its AMGEN marks in jurisdictions around the world, all of which date back decades. AMGEN is an arbitrary term coined by the Complainant.

Since 1990, the Complainant has owned and continuously used the domain name <amgen.com> to offer and promote its biopharmaceuticals and related goods and services.

The Respondent is seeking to capitalize on the goodwill and recognition of Complainant's AMGEN marks through a fraudulent phishing scheme using the Disputed Domain Name.

The Disputed Domain Name incorporates in full Complainant's AMGEN mark. The addition of the term "my" to Complainant's AMGEN mark does nothing to reduce the confusing similarity of the Disputed Domain Name. The addition of the generic term "inc" does not distinguish the Disputed Domain Name from Complainant's AMGEN mark.

The Respondent has no rights or legitimate interests in the Disputed Domain Name. There is no evidence that the Respondent is commonly known by Amgen, My Amgen or My Amgen Inc.

There is no evidence that the Respondent has used or is preparing to use the Disputed Domain Name in connection with the *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the Disputed Domain Name. The Respondent's Disputed Domain Name resolves to a parked page with third-party links related to pharmaceuticals.

The Respondent is using the Disputed Domain Name in an attempt to defraud the Complainant and its vendors. For example, an individual posed as the Complainant's "Chief Procurement Officer" and sent an email from the Disputed Domain Name to a third-party supplier with a phony purchase order attempting to buy nearly USD100,000 worth of microscopes.

## **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 the AMGEN trademark in various jurisdictions. The addition of the terms "my" and "inc" does not prevent a finding of confusing similarity as the Complainant's AMGEN mark is clearly recognizable in the Disputed Domain Name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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. That the Respondent has not at any time been commonly known by the Disputed Domain Name and is not making a legitimate noncommercial or fair use of the Disputed Domain Name. The Complainant has also evidenced that the Respondent is using the Disputed Domain Name to direct Internet users seeking to find the Complainant's website to a parking page containing ads competing with or capitalizing on the reputation and goodwill of the AMGEN trademark that generate click-through revenue for the Respondent. Further, the Respondent has used the Disputed Domain Name to engage in an email scheme designed to swindle money from one of the Complainant's vendors.

After a complainant has made a *prima facie* case, the burden of production shifts to the respondent to present evidence demonstrating rights or legitimate interests in the Disputed Domain Name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

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

Accordingly, the Panel finds that the Complainant has met its burden under 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 globally famous AMGEN trademark. The evidence on the record provided by the Complainant with respect to the extent of use and fame of its AMGEN trademark, combined with the absence of any evidence provided

by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's AMGEN trademark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

There is *prima facie* no reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the AMGEN trademark.

Further, the use of the Disputed Domain Name by the Respondent is clearly in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the 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 the respondent's website or location or of a product or service on the respondent's website or location. The Complainant has submitted evidence that the Respondent has used the Disputed Domain Name in order to direct users to a parked website which includes links to both the Complainant's website and that of its competitors. Given the fame of the Complainant's AMGEN mark, the obvious inference is that the Respondent hoped to mislead customers of the Complainant to visit the website at the Disputed Domain Name trading on the Complainant's trademark and reputation in order to obtain pay-per-click revenue. In addition, the Disputed Domain Name has been used for as a part of a scheme to swindle money from a vendor of the Complainant by creating a fake email purporting to be from an executive of the Complainant. This is a textbook example of bad faith use on the part of the Respondent.

In the absence of any evidence or explanation from the Respondent, the Panel finds that the only plausible basis for registering and using the Disputed Domain Name has been for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the Complainant has satisfied 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 <myamgeninc.com> be transferred to the Complainant.

*/Colin T. O'Brien/*

**Colin T. O'Brien**

Sole Panelist

Date: July 28, 2022