

ADMINISTRATIVE PANEL DECISION

Moderna, Inc., and ModernaTX, Inc. v. Milen Radumilo
Case No. D2022-2654

1. The Parties

The Complainant is Moderna, Inc., and ModernaTX, Inc., United States of America (“United States” or “US”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <moderna.info> is registered with Communigal Communications Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2022. On July 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 27, 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 July 27, 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 amendment to the Complaint on July 28, 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 July 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 19, 2022.

The Center appointed George R. F. Souter as the sole panelist in this matter on August 23, 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.

Preliminary procedural matter

Given the legal relationship between Moderna, Inc., and ModernaTX, Inc., the two companies felt it appropriate that this Complaint is filed on behalf of both entities, because “[a] trademark owner’s affiliate such as a subsidiary of a parent or of a holding company... is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.4.1. Accordingly, references herein to “Complainant” shall refer to Moderna, Inc. and/or ModernaTX, Inc., as the context may allow or require. The Panel formally approves this procedure.

4. Factual Background

The Complainant’s pioneering COVID-19 vaccine is one of the most widely administered vaccines in the history of medicine. It manufactured and shipped 800 million doses globally in 2021. Health authorities in more than 70 countries – including the United States, Japan, the European Union, the United Kingdom, Switzerland, Australia, and Israel – have approved Complainant’s COVID-19 vaccine. Complainant’s global sales in 2021 were approximately USD 18.5 billion. Thus, Complainant and its MODERNA trademark have become extremely well-known worldwide, earning it recognition as the world’s most innovative company in 2021.

The Complainant is the proprietor of a number of trademark registrations of its MODERNA trademark, including US registration number 4675783, registered on January 21, 2015.

The disputed domain name was registered on June 25, 2022, and redirects to a variety of different websites, one of which has been identified by Google Safe Browsing as “deceptive” and associated with phishing.

5. Parties’ Contentions

A. Complainant

The Complainant alleges that the Respondent, Milen Radumilo, is a serial cybersquatter, and has identified to the Panel 134 cases in this jurisdiction in which Milen Radumilo appears as losing respondent.

The Complainant alleges that the disputed domain name is confusingly similar to its MODERNA trademark, containing the MODERNA trademark in its entirety, with no additions or variations.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular, to the best of the Complainant’s knowledge, the Respondent is not generally known by the disputed domain name, and that the Complainant has never granted permission to the Respondent to use its MODERNA trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith, as described above, in connection with direction to a phishing website.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has trademark rights to its MODERNA trademark for the purposes of these proceedings, and recognizes the MODERNA trademark to be well-known.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain (“gTLD”) may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the gTLD “.info” to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant’s MODERNA trademark is clearly recognizable in the disputed domain name, the disputed domain name is identical to the Complainant’s trademark. Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain name at issue.

B. Rights or Legitimate Interests

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s well-known MODERNA trademark, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy, in connection with the disputed domain name.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstance of the present case, in which the Panel regards it as self-evident that the Complainant’s trademark was deliberately appropriated in the disputed domain name are such that the Panel concludes that a finding of registration in bad faith is justified in connection with the disputed domain name, and so finds.

The [WIPO Overview 3.0](#) lists phishing as a use of a disputed domain name to be regarded as use in bad faith. Accordingly, the Panel finds that the disputed domain name is being used in bad faith, in the circumstances of the present case.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy, in respect of the disputed domain name.

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, <moderna.info> be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: September 6, 2022