

ADMINISTRATIVE PANEL DECISION

Gilead Sciences, Inc. v. info info, Gilead
Case No. D2023-2336

1. The Parties

The Complainant is Gilead Sciences, Inc., United States of America (“United States”), internally represented.

The Respondent is info info, Gilead, United States.

2. The Domain Name and Registrar

The disputed domain name <gileadjob.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2023. On May 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 2023, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 2023, 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 10, 2023.

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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 4, 2023. 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 was founded in 1987 in Foster City, California, United States, and is one of the largest biopharmaceutical companies in the world. In 2022 the Complainant's total worldwide revenue was approximately USD 27.3 billion, and it was listed as number 129 in the Fortune 500 Companies rankings. The Complainant is a member of the S&P 500 and employs approximately 14,500 persons worldwide.

The Complainant has several registrations for the GILEAD trademark around the world. The Complainant is, *inter alia*, the owner of:

- United States trademark GILEAD (word), registration number 3,251,595, registered on June 12, 2007;
- European Union trademark GILEAD (word), registration number 3913167, registered on November 7, 2005;
- Indian trademark GILEAD (word), registration number 2363685, registered on July 13, 2012;
- Chinese trademark GILEAD (word), registration number 816124, registered on February 21, 1996.

In addition, the Complainant holds the domain name <gilead.com>, registered on May 27, 1995.

The disputed domain name was registered on May 4, 2023.

The disputed domain name appears to be inactive.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

(a) the disputed domain name is confusingly similar to the Complainant's trademark; (b) the Respondent lacks any rights or legitimate interests in the disputed domain name; and (c) the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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 Complainant has established rights in the GILEAD trademark.

The disputed domain name contains the Complainant's GILEAD trademark with the addition of the term "job" and the generic Top-Level Domain ("gTLD") ".com". The addition in the disputed domain name of the term "job" does not prevent the GILEAD trademark from being recognizable in the disputed domain name.

Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds the disputed domain name to be confusingly similar to the GILEAD trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name, and the burden of production of evidence shifts to the Respondent. The composition of the disputed domain name carries a risk of implied affiliation with the Complainant. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. Indeed, it appears that the Respondent is passively holding the disputed domain name. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name, notwithstanding that the Respondent's organization name as per the Whois appears to be Gilead. Noting the nature of the disputed domain name, and the lack of evidence by the Respondent as to its name being "Gilead", the Panel considers that the Respondent likely provided such name to create an impression of association between the disputed domain name and the Complainant. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the GILEAD mark when it registered the disputed domain name.

The Complainant's GILEAD trademark is a distinctive and renowned trademark and has been registered and used for about 30 years. The renown of the Complainant's trademark has already been acknowledged in previous UDRP decisions such as in *Gilead Sciences, Inc. v. John Cuban, Gilead Online Pharmacy*, WIPO Case No. [D2020-1254](#), in which it was held that the GILEAD trademark is "so well-known and recognized that there can be no legitimate use of it by the Respondent".

Consequently it appears, on the balance of probability, that the Respondent registered the disputed domain name while aware of the Complainant's trademark and activity, and did so with the intention of creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of either the Respondent and/or the disputed domain name.

This constitutes bad faith registration and use as well as a disruption of the Complainant's business under the Policy.

Another factor supporting this conclusion of bad faith registration and use of the disputed domain name can be seen in the registrant's details provided by the Respondent when registering the disputed domain name. In fact, it appears that the Respondent, when it registered the disputed domain name, not only used a privacy shield service to hide its identity, but also indicated the Complainant's company name and its postal address as the registrant's name and address.

This fact is on its own a clear inference that when registering the disputed domain name the Respondent was fully aware of the Complainant and intended to target the Complainant.

Inference of bad faith can also be found in the Respondent's failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Finally, as regards the use in bad faith of the disputed domain name, which currently resolves to an inactive website, the Panel considers that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3. The Panel here considers as relevant the renown of the Complainant's trademark, the incorporation of said distinctive trademark and the inherently misleading nature of the disputed domain name, the Respondent's use of false contact details, and the Respondent's failure to participate in the proceeding.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, 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 <gileadjob.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: August 7, 2023