

ADMINISTRATIVE PANEL DECISION

Hims, Inc. v. MANISH RAIKWAR, Helpmate24
Case No. D2024-1675

1. The Parties

The Complainant is Hims, Inc., United States of America (“USA”), represented by Jones Day, USA.

The Respondent is MANISH RAIKWAR, Helpmate24, India.

2. The Domain Name and Registrar

The disputed domain name <mrhims.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains by Proxy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 23, 2024, providing the registrant and contact information disclosed by the Registrar, and requesting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on the same day.

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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent sent email communications to the Center on April 24 and May 1, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 22, 2024. The Panel then issued a Panel Order to query the basis of Respondent’s claim to having legitimate rights to use the domain name based on their alleged trademark right from 2023. The Respondent did not provide a reply to this.

4. Factual Background

The Complainant is headquartered in the USA and is active in the healthcare industry. The Complainant is a provider of men's and women's wellness and personal care products and treatments, focusing on helping men and women discuss uncomfortable health issues, including hair growth, erectile dysfunction etc. The Complainant particularly states that it aims to offer, with its online provision of healthcare products, a modern approach to health and wellness and works to eliminate stigmas and make it easier for people to access care and treatment for the conditions that impact their daily lives.

The Complainant is the owner of an international trademark portfolio of trademark registrations for HIMS, including but not limited to: USA trademark registration for HIMS n° 5,752,035, registered since May 14, 2019 and USA trademark registration for HIMS n° 5,752,036, registered since May 14, 2019. The Complainant also provides evidence that it possesses a domain name portfolio, including the domain name <hims.com>, which is linked to the Complainant's main website.

The Complainant's abovementioned trademark registrations were registered before the registration date of the disputed domain name, namely April 24, 2020. The Complainant also owns a number of trademark registrations for HIMS from after the registration date of the disputed domain name, including in the Respondent's jurisdiction, India.

The Respondent is based in India and operates the disputed domain name, which is linked to an active website which is very similar to the Complainant's website, and which presents itself as a digital health clinic for men, offering the same range of products as the Complainant's website, i.e., supplements and products for hair growth, erectile dysfunction, etc., and which prominently displays a logo similar to the Complainant's HIMS mark and which even copies certain contents and materials of the Complainant's website.

The Complainant provides evidence that it attempted to resolve this procedure amicably through sending cease-and-desist letters to the Respondent and its hosting provider, to which the Complainant received no response from the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its prior registered trademarks since it incorporates the HIMS trademark in its entirety with the mere addition of the descriptive abbreviation "mr". Furthermore, the Complainant essentially contends that the Respondent is not affiliated in any way to the Complainant and has no rights or legitimate interests in the Complainant's trademarks. The Complainant also essentially argues that the Respondent connected the disputed domain name to a website impersonating the Complainant, thereby even copying certain contents of the Complainant's website, to either sell counterfeit pharmaceuticals or as part of a phishing scheme, which, it argues, cannot give rise to rights or legitimate interests. The Complainant also contends that the Respondent knew about the Complainant's business and trademarks and is therefore acting in bad faith, and that its bad faith is also reinforced by the Respondent's unsuccessful attempt to register a mark in India. The Complainant contends that such use does not confer any rights or legitimate interests on the Respondent and constitutes evidence of bad faith registration and use of the disputed domain name.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. The Respondent particularly provided its arguments in its

informal email communications sent on April 24 and May 1, 2024, arguing that he bought the domain from GoDaddy legally and requesting general information about the procedure. In these emails, the Respondent also stated that he made significant costs for website development, has been hosting a website at the disputed domain name for a year and claimed that since 2023 he also owns a trademark for MRHIMS.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's mark HIMS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term here, "mr", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not sufficiently rebutted the Complainant's prima facie showing and has not come forward with any relevant or sufficient evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel particularly disagrees with the Respondent's statements regarding the fact that it legally acquired the disputed domain name from the Registrar and regarding its unsubstantiated statements that it owns a trademark for MRHIMS. Firstly, it is the settled view of panels applying the Policy that the mere successful registration or acquisition of a domain name is, by itself, not sufficient to convey rights or legitimate interests in such domain name on the Respondent. Secondly, the Panel notes that the Respondent does not provide any proof of its trademark registration, and notes that the Complainant provides proof that the Registrar of

Trade Marks of India ordered the Respondent's trademark application for MRHIMS abandoned on March 19, 2024 (which the Panel, on the balance of probabilities, presumes concerns the trademark referred to by the Respondent). Finally, in the Panel's view, even if the Respondent were to own a valid trademark for HIMS or MRHIMS in India (which the Respondent did not provide any evidence to despite the Panel Order issued querying the same), considering the overall facts and considerations in this case, and particularly the Respondent's clear intention to impersonate the Complainant and pass its website off as the Complainant's, such trademark would still not be capable of conferring adequate rights or legitimate interests on the Respondent as per section 2.12 of the [WIPO Overview 3.0](#).

Furthermore, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to a website which clearly copies the overall look-and-feel of the Complainant's website, impersonates the Complainant and purportedly offers for sale healthcare products (including hair growth and erectile dysfunction products) which overlap with, and therefore compete with the Complainant's offering of products. In this regard, the Panel specifically refers to the fact that the Respondent has copied word-for-word certain contents from the Complainant's website, including details about the Complainant's business such as the statement which is being used by the Complainant for offering employment opportunities (referring to the San Francisco Fair Chance Ordinance) and even a literal reference to the Complainant's November 2017 launch and its initial funding amount. The foregoing elements clearly suggest that the Respondent is using the disputed domain name to mislead Internet users by attempting to impersonate and creating a misleading affiliation with the Complainant. Given the abovementioned elements, the Panel concludes that the Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Finally, panels have held that the use of a domain name for illegal activity, here, impersonation/passing off (or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Given the longstanding, and intensive use of the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name, which is confusingly similar to such marks and contains the descriptive term "mr", clearly and consciously targeted the Complainant's prior registered trademarks. On the basis of the foregoing elements, the Panel concludes from this attempt to consciously target the Complainant's prior trademarks that the Respondent knew of the existence of the Complainant's trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name is clearly used to impersonate the Complainant (e.g. through the literal copying of certain contents originating from the Complainant's website, as discussed above under the second element) and to purportedly offer for sale products misrepresented as the Complainant's products, or at least competing with the Complainant's products, since this proves that the Respondent was fully aware of the Complainant's business and its prior trademarks. The Panel also considers that the Respondent's attempt to register the MRHIMS mark in India, which was ordered abandoned after the Respondent failed to defend its application in an opposition proceeding filed by the Complainant, was likely an attempt by the Respondent to squat this trademark in India, which also points to the Respondent's bad faith. In the Panel's view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website which shows a clear intent on the part of the Respondent to impersonate the Complainant and purportedly offers for sale products misrepresented as the Complainant's products, or which are at least competing with the Complainant's products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy.

Finally, panels have held that the use of a domain name for illegal activity here, impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds the third element of the Policy has been established.

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 <mrhims.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: June 17, 2024