

ADMINISTRATIVE PANEL DECISION

AbbVie Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2024-3264

1. The Parties

Complainant is AbbVie Inc., United States of America (“United States”), represented by Thomas & LoCicero PL, United States.

Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <abbviessharepoint.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 August 8, 2024. On August 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 2024, 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, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on August 13, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 14, 2024.

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 Respondent of the Complaint, and the proceedings commenced on August 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 11, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on September 17, 2024. 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

Complainant is a company organized under the laws of the United States that is active in the biopharmaceutical industry.

Complainant has provided evidence that it is the registered owner of several trademarks relating to its company name and brand ABBVIE, including, but not limited to, the following:

- Word mark ABBVIE, United States Patent and Trademark Office (“USPTO”), registration number: 4,344,288, registration date: May 28, 2013, status: active;
- word mark ABBVIE, USPTO, registration number: 4,340,091, registration date: May 21, 2013, status: active.

Moreover, Complainant has evidenced its ownership, since 2012, of the domain name <abbvie.com> which resolves to Complainant’s official website at “www.abbvie.com”, promoting Complainant’s biopharmaceutical products and related services.

Respondent, according to the information provided by the Registrar for the disputed domain name, is located in Panama. The disputed domain name was registered on June 5, 2024, and resolves to a Pay-per-click (“PPC”) website with hyperlinks to third parties’ active websites unrelated to Complainant. Besides, Complainant has demonstrated that, at some point before the filing of the Complaint, the disputed domain name was offered for online sale at a purchase price of USD 1,499.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends that it was founded in 2013 and nowadays employs more than 50,000 people around the world, with roughly 50 million people each year in over 175 countries worldwide using the medications and other products developed by Complainant. The ABBVIE trademark has been widely used since 2013 in print, television and online advertising, and is meanwhile well-known and widely associated with Complainant.

Complainant submits that the disputed domain name is identical or confusingly similar to Complainant’s ABBVIE trademark, since it entirely consists of the latter, simply added by the term “sharepoint”. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent is not licensed or authorized to use Complainant’s ABBVIE trademark in connection with the disputed domain name or in any context, and (2) the disputed domain name appears to be parked and is available for purchase for USD 1,499. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) intentionally registering a domain name that contains of Complainant’s ABBVIE trademark is of itself evidence of bad faith, (2) offering the disputed domain name for sale for an amount of USD 1,000 or less, is determined to be “well in excess of the usual out-of-pocket costs directly related to the registration of a domain name”, and (3) Respondent has been involved in numerous other UDRP proceedings with similar factual situations, thus in a pattern of abusive domain name registrations.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

First, 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.

Complainant has shown rights in respect of its ABBVIE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the entirety of such trademark is reproduced within the disputed domain name, simply added by the term "sharepoint". Accordingly, the disputed domain name is confusingly similar to Complainant's ABBVIE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. Rights or Legitimate Interests

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

Based on the available record, Respondent has not been authorized to use Complainant's ABBVIE trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "abbvie" on its own. Finally, and in light of the unrebutted allegations by Complainant, Respondent has neither used the disputed domain name for a bona fide offering of goods or services nor for a legitimate noncommercial or fair purpose. The disputed domain name resolves to a website that displays various PPC commercial links and was offered on the Internet for a sales price of USD 1,499. Such use does not amount to a bona fide offering of goods and services. Moreover, given that the disputed domain name incorporates the undisputedly well-known ABBVIE trademark in its entirety, the disputed domain name carries, as such, a risk of implied affiliation with Complainant and its trademark, which is why the use of the disputed domain name displaying PPC commercial links from which Respondent most probably derives commercial revenue and offering the disputed domain name for online sale cannot constitute fair use and, thus, cannot confer rights or legitimate interests therein (see [WIPO Overview 3.0](#), section 2.5.1).

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

C. Registered and Used in Bad Faith

Third, the Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The circumstances to this case, especially the notoriety of Complainant's ABBVIE trademark, and the composition of the disputed domain name, indicate that Respondent, more likely than not, was aware of Complainant and its rights in its undisputedly well-known ABBVIE trademark when registering the disputed domain name. Moreover, the fact that the disputed domain name is parked with PPC links, and is used by Respondent to be offered on the Internet for a sales price of USD 1,499, is a clear indication that Respondent registered the disputed domain name primarily for the purpose of selling it to Complainant or any third party in excess of Respondent's likely out-of-pocket costs directly related to the disputed domain name. Such circumstances are evidence of registration and use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(i) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated August 15, 2024, could not be delivered. Moreover, Respondent has been a party to several more UDRP proceedings, in all of which the panels ruled that the disputed domain names be transferred to the respective complainants. These facts at least throw a light on Respondent's behavior which supports the Panel's bad faith finding.

The Panel, therefore, holds that Complainant has established the third element of the Policy, too.

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, <abbviesharepoint.com>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: September 30, 2024