

ADMINISTRATIVE PANEL DECISION

Poly-Gel, L.L.C. v. DODSONCLAYTON

Case No. D2024-3958

1. The Parties

Complainant is Poly-Gel, L.L.C., United States of America (“United States”), represented by Hovey Williams LLP, United States.

Respondent is DODSONCLAYTON, United States.

2. The Domain Name and Registrar

The disputed domain name <natracuregeltherapy.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 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 (unavailable) and contact information in the Complaint. The Center sent an email communication to Complainant on September 30, 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 October 2, 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 October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 24, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on November 1, 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, Poly-Gel, L.L.C., is a manufacturer of medical-grade gel therapy products and materials. Complainant offers a line of therapeutic products under the name and mark NATRACURE and owns a number of trademark registrations for its NATRACURE mark (or the variant NATRA CURE) in the United States as both a word mark and design mark (Registration Nos. 3308698, 4717081, 6147925, 6262072, 6003409, 6130862, 6338126, and 6451461), the earliest of which issued to registration in October 2007. Complainant also owns a number of registrations for NATRACURE mark in many jurisdictions, including in the United Kingdom (Registration No. UK00801490531), which issued to registration in March 2020. Lastly, Complainant also owns and uses the domain name <natracure.com> which it uses to provide information regarding Complainant and its products and for an e-commerce website.

Respondent appears to be based in the United States according to the Registrar's confirmation, although Respondent used an address in the United Kingdom on the website at the disputed domain name. The disputed domain name was registered on July 20, 2024 and at some point thereafter resolved to a website that featured the NATRACURE mark and which offered Complainant's products with images that were copied from Complainant's website. Currently there is no active website or page at the disputed domain name.

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 has strong rights in the NATRACURE mark by virtue of its use off NATRACURE with high-quality therapeutic products since as early as 2005 and on account of its numerous trademark registrations for the NATRACURE mark. Complainant asserts that the disputed domain name is confusingly similar as it fully consists of the NATRACURE mark with the non-distinguishing descriptive term "gel therapy". Lastly, Complainant argues that Respondent does not have a legitimate interest in the disputed domain name and is acting in bad faith as Respondent is not commonly known by the disputed domain name and is using the disputed domain names to attract and redirect Internet users to Respondent's website that features the NATRACURE mark in order to sell Complainant's products and those of competitors at "severely discounted prices".

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.7. Complainant has provided evidence that it owns trademark registrations for the NATRACURE mark and that such issued to registration well before Respondent registered the disputed domain name.

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. *Id.*

Here, the disputed domain fully incorporates the NATRACURE mark at the head of the disputed domain name. Although the addition of the additional term "gel therapy" at the tail of the disputed domain name may bear on the 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 NATRACURE mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel thus finds that 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 a 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted the 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.

Here, the disputed domain name is clearly based on Complainant's exact NATRACURE mark. The addition of the term "gel therapy", which directly relates to Complainant's products, at the tail of the disputed domain name, makes it more likely than not that the disputed domain name will mistakenly be seen by consumers as related to Complainant and its products. In all, the disputed domain name effectively impersonates Complainant and thus, on its face, carries a risk of implied affiliation. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#), section 2.5.1.

Further confirming Respondent's lack of rights or legitimate interests in the disputed domain name is Respondent's prior use of the disputed domain name for a website that prominently displayed Complainant's

trademark and offered Complainant's products for sale using copies of Complainant's photographs for its products. Such use likely could be seen by consumers as an official or authorized website of Complainant, particularly as Respondent's website does not appear to include any legitimate disclaimer. Simply put, Respondent's use of the disputed domain name to promote a connection to Complainant for Respondent's financial benefit is not legitimate.

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

C. Registered and Used in Bad Faith

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.

In view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain name, which prominently includes Complainant's exact NATRACURE mark with an additional term referring to Complainant's products has been done opportunistically and in bad faith for the benefit or profit of Respondent. The disputed domain name essentially impersonates Complainant and was registered well after Complainant had established rights in its NATRACURE mark. Indeed, Respondent has used the disputed domain name with a website, as noted above, that prominently features the NATRACURE mark and which copies product images from Complainant's website for what is likely no more than an attempt to pass off the website as authorized by or affiliated with Complainant, when such is not the case. In all, Respondent's actions, including the registration of the disputed domain name based on the NATRACURE mark, makes it clear that Respondent was fully aware of Complainant and its NATRACURE name and specifically chose to target Complainant in bad faith.

The Panel finds that the Complainant has established the third element 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 <natracuregeltherapy.shop> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: November 15, 2024