

ADMINISTRATIVE PANEL DECISION

CVS Pharmacy, Inc. v. Diane Mabry
Case No. D2024-4034

1. The Parties

The Complainant is CVS Pharmacy, Inc., United States of America (“United States”), represented by The GigaLaw Firm, LLC, United States.

The Respondent is Diane Mabry, United States.

2. The Domain Name and Registrar

The disputed domain name <cvshealthus.pro> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 1, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 (REDACTED FOR PRIVACY / Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 2024, 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 October 8, 2024.

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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 31, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on November 18, 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

The Complainant operates a health innovation company in the United States. It owns the registered trademarks CVS (United States Reg. No. 919,941, registered on September 7, 1971) and CVS HEALTH (United States Reg. No. 5,055,141, registered on October 4, 2016). The Complainant asserts that these marks have been extensively used in connection with the Complainant's health, pharmacy, and retail services, and are widely recognized.

According to the Whois records, the disputed domain name was registered on January 22, 2024. The Respondent has used the disputed domain name to host a website that copies the Complainant's marks and otherwise falsely associates itself with the Complainant, engaging in activities designed to mislead users and harvest sensitive personal information.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademarks; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

The Complainant asserts that the website associated with the disputed domain name includes a prominent reference at the top to "GIBSON DUNN," a leading global law firm, as well as a note near the bottom that falsely says, "Gibson Dunn LLP is a law firm authorized by the Supreme Court to have sole authority to handle or proceed with your and CVS Health's claims". Annex 9 of the Complaint. On September 23, 2024, Gibson Dunn contacted the Registrar about "fraudulent activity" associated with the disputed domain name ("to harvest personally identifying information (PII), including U.S. social security numbers" – a type of phishing), and the Registrar suspended the disputed domain name on September 24, 2024. Annex 10 of the Complaint.

The Complainant further asserts that the Respondent is a repeat cybersquatter, citing the prior UDRP decision in *CVS Pharmacy, Inc. v. Diane Mabry*, FA 2082755, which resulted in the transfer of the domain name <cvshealthus.org>. The Complainant argues that the Respondent's conduct demonstrates a pattern of bad faith registration and use under paragraph 4(b)(ii) of the UDRP.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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. The Panel finds that all three elements have been met in this case.

A. Identical or Confusingly Similar

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

The Complainant has demonstrated its rights in the CVS and CVS HEALTH marks through evidence of its trademark registrations. A registered trademark provides a clear indication that the rights in the mark belong to the Complainant. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

The disputed domain name incorporates the CVS and CVS HEALTH marks in their entirety, with the addition of the additional term "us". Such additions or modifications do not prevent a finding of confusing similarity, as the trademarks remain clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

It is well established that the applicable Top-Level Domain ("TLD"), such as ".pro", is generally disregarded when assessing identity or confusing similarity. See [WIPO Overview 3.0](#), section 1.11.1 ("The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's CVS and CVS HEALTH marks, and the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element by first considering whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production then shifts to the Respondent.

The Complainant asserts, among other things, that: (1) it has not authorized, licensed, or otherwise permitted the Respondent to use its trademarks; (2) the Respondent is not commonly known by the disputed domain name; and (3) the Respondent has used the disputed domain name to operate a website falsely associating itself with the Complainant and engaging in fraudulent activities, including phishing.

The Panel finds that the Complainant has made a prima facie showing, which the Respondent has failed to rebut. The Respondent's unauthorized and fraudulent use of the disputed domain name does not constitute a bona fide offering of goods or services or legitimate noncommercial use. The Panel concludes that the Respondent lacks rights or legitimate interests in the disputed domain name, satisfying the second element under the Policy.

C. Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith.

While the Complainant claims that the Respondent is using the disputed domain name to provide fraudulent information about a nonexistent class action settlement with CVS Health, the Panel notes that the Complainant's own site at <https://www.cvshealth.com/news/company-news/cvs-health-finalizes-previously-announced-global-opioid-settlement-agreement.html> provides information about a settlement (titled: "CVS Health finalizes previously announced global opioid settlement agreement"); albeit not framed in terms of a "class action" settlement.

In any event, the Complainant has provided compelling evidence that the Respondent registered and used the disputed domain name to exploit the Complainant's well-known trademarks for fraudulent purposes. The use of the disputed domain name to host a phishing website demonstrates an intention to deceive Internet users by the misuse of the Complainant's reputation. Whether the information presented is true or not, the inherently misleading disputed domain name has been used to host a website that copies the Complainant's marks (and look and feel of the Complainant's own website) and otherwise falsely associates itself with the Complainant.

Moreover, the Respondent appears to be a repeat cybersquatter. The Complainant has submitted evidence of a prior UDRP decision involving the same trademark and a nearly identical disputed domain name (<cvshealthus.org>). This conduct establishes a pattern of bad faith under paragraph 4(b)(ii) of the Policy.

The Respondent's failure to respond further supports a finding of bad faith. Accordingly, the Panel finds that the Complainant has established this third element under 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 <cvshealthus.pro> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: November 29, 2024