

ADMINISTRATIVE PANEL DECISION

Senderra RX Partners, LLC v. Hulmiho Ukolen, Poste restante
Case No. D2023-3406

1. The Parties

The Complainant is Senderra RX Partners, LLC, United States of America (“United States”), represented by Much Shelist PC, United States.

The Respondent is Hulmiho Ukolen, Poste Restante, Finland.

2. The Domain Name and Registrar

The disputed domain name <senderra.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 9, 2023. On August 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 (REDACTED FOR PRIVACY, GRANSY S.R.O) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 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 amended Complaint on August 11, 2023.

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 the Respondent of the Complaint, and the proceeding commenced on August 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2023.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on September 13, 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

A. Complainant

The Complainant is a company incorporated in the United States and the operator since 2016 of an online specialty pharmacy under the trade mark SENDERRA (the "Trade Mark").

The Complainant is the owner of registrations for the Trade Mark in the United States, including United States registration No. 5204233, registered on May 16, 2017.

B. Respondent

The Respondent is apparently located in Finland.

C. The Disputed Domain Name

The disputed domain name was registered on January 7, 2005.

D. Use of the Disputed Domain Name

Since December 2022 the disputed domain name been resolved to a parking page with sponsored links relating to online pharmacy and specialty pharmacy services (the "Website").

5. Parties' Contentions

A. Complainant

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

B. Respondent

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

6. Discussion and Findings

The Complainant must prove each of the three elements under paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark.

Disregarding the generic Top-Level Domain ".com", the disputed domain name is identical to the Trade Mark.

The Panel therefore finds that the disputed domain name is identical to the Trade Mark.

B. Rights or Legitimate Interests

In light of the Panel's finding in respect of the third element under paragraph 4(a) of the Policy in Section 6.C. below, it is not necessary for the Panel to make any determination in respect of the second element.

C. Registered and Used in Bad Faith

In order to establish bad faith for the purposes of the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. This is a conjunctive requirement.

The Complainant contends that the Respondent registered the disputed domain name in January 2005, but updated its Website in December 2022.

As the disputed domain name was registered 11 years before the Complainant obtained its rights in the Trade Mark, the Complainant is unable to establish that the disputed domain name was registered in bad faith (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 3.8.1).

Accordingly, the Complainant has failed to prove the third element under paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: September 27, 2023