

ADMINISTRATIVE PANEL DECISION

Sarepta Therapeutics, Inc. v. Daniel Nduta, KAGZDO
Case No. D2023-3058

1. The Parties

Complainant is Sarepta Therapeutics, Inc., United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

Respondent is Daniel Nduta, KAGZDO, United States.

2. The Domain Name and Registrar

The disputed domain name <sarepta.top> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 17, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (Privacyguardian.org LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 20, 2023, 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 July 25, 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 Respondent of the Complaint, and the proceedings commenced on August 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 23, 2023.

The Center appointed Timothy D. Casey as the sole panelist in this matter on September 1, 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

Complainant is biotechnology company that conducts medical research, drug development, gene therapy medicines, and genetic medicines. Since 2012, Complainant has used the SAREPTA trademark for its goods and services and has numerous trademark registrations in the United States and around the world for SAREPTA or incorporating the word “Sarepta” (the “SAREPTA Marks”). The SAREPTA Marks include the following:

Mark	Designation	Class(es)	Registration No.	Registration Date
SAREPTA	United States	5	6,342,349	May 4, 2021
SAREPTA	United States	5, 42	4,653,264	December 9, 2014
SAREPTA	United States	1	4,724,239	April 21, 2015
SAREPTA THERAPEUTICS	United States	1	4,724,240	April 21, 2015
SAREPTA THERAPEUTICS	United States	5, 42	4,653,265	December 9, 2014

The disputed domain name was registered October 27, 2022, and redirects to Complainant’s website “www.sarepta.com”.

Complainant provided evidence showing that the disputed domain name was included in a 90 day SAN SSL certificate expiring September 30, 2023, along with domain names including the brands of other scientific entities, including <abbott.icu>, <amplify-bio.info>, and <battelle.cloud>.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name incorporates the exact SAREPTA word mark, thereby causing the disputed domain name to be so clearly similar to the SAREPTA Marks that it is likely to cause confusion. Complainant further contends that the disputed domain name redirects to Complainant’s own website, further adding to the likelihood of confusion. Complainant also contends that the mere addition of the generic Top-Level Domain “.top” should be disregarded for purposes of comparing the disputed domain name to the SAREPTA Marks.

Complainant contends that Respondent is not affiliated with Complainant, has never authorized Respondent to register or use the disputed domain name, and that Respondent has no rights or legitimate interests in the SAREPTA Marks or the disputed domain name. Complainant contends that Respondent is not commonly known by the SAREPTA Marks. Complainant further alleges that Respondent cannot demonstrate any rights or legitimate interests in the disputed domain name and is not using the disputed domain name in connection with a *bona fide* offering of goods or services. Complainant further contends that Respondent is not making a legitimate noncommercial use of the disputed domain name.

Complainant contends, according to *Guinness Son & Co., (Dublin) Ltd. v. Steel Vertigogo*, WIPO Case No. [D2001-0020](#), that considering Respondent’s lack of rights or legitimate interests in the disputed domain name, that the Panel need not consider Respondent’s bad faith registration. Nevertheless, Complainant also contends that Respondent clearly knew of the SAREPTA Marks prior to registration, which is further evidenced by the fact that the disputed domain name redirects to Complainant’s website.

Complainant further contends that the disputed domain name was registered for the purpose of engaging in opportunistic cybersquatting, again as evidenced by the disputed domain name resolving to Complainant's website, which could enable Respondent to send fraudulent emails. Complainant also points to the SAN SSL certificate obtained by Respondent, which could serve to authenticate any fraud attempts by Respondent.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant's use of the SAREPTA Marks and registrations are more than sufficient to establish that Complainant has trademark rights in the SAREPTA Marks.

Complainant contends that the disputed domain name is confusingly similar to the SAREPTA Marks. Complainant contends that the addition of the gTLD ".top" in the disputed domain name should be disregarded for this analysis.

The Panel agrees that the SAREPTA Marks are clearly recognizable in the disputed domain name and finds that the disputed domain name is identical to the SAREPTA Marks.

B. Rights or Legitimate Interests

The Panel finds that Respondent has no rights or legitimate interests in the disputed domain name. Respondent does not appear to be commonly known by the disputed domain name. Complainant has not licensed or authorized Respondent to use the SAREPTA Marks. Regardless of what Respondent's exact intention may have been in redirecting the disputed domain name to Complainant's website or including the disputed domain name in the SAN SSL certificate, neither activity is sufficient to support a finding of a legitimate noncommercial or fair use and does not constitute a *bona fide* offering of goods or services. Complainant has made out a *prima facie* case that Respondent does not have rights or legitimate interests in the disputed domain name, and the burden of production of evidence shifts to Respondent. Respondent has not rebutted Complainant's *prima facie* case and has provided no arguments or evidence showing potential rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising only of the SAREPTA Marks carries a high risk of implied affiliation with Complainant as it effectively impersonates or suggests sponsorship or endorsement by Complainant, and accordingly cannot constitute a fair use in these circumstances. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

For these reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given i) the timing of Complainant's first use of the SAREPTA Marks in 2012 and the first registration of the SAREPTA Marks, predating registration of the disputed domain name by over 10 years, ii) the misleading nature of the disputed domain name in combination with the redirection of traffic from the disputed domain name to Complainant's website, and iii) the timing of the registration of the disputed domain name and Respondent's use of the disputed domain name, indicates that Respondent had clear knowledge of the SAREPTA Marks and Complainant's business prior to registration.

The Panel finds that Respondent's registration of the disputed domain name was in bad faith.

In addition, the Panel finds the subsequent usage of the disputed domain name to resolve to Complainant's website supports a finding of bad faith insofar as the Respondent maintains control over the redirection and thus Respondent's control over the identical disputed domain name represents a real or implied and ongoing threat to the Complainant. [WIPO Overview 3.0](#), section 3.1.4. The lack of Response from the Respondent and the apparent provision of false contact information, given the lack of a street address, further support an inference of bad faith.

The Panel concludes that the disputed domain name was registered and is being used in bad faith.

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 <sarepta.top> be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: September 19, 2023