

ADMINISTRATIVE PANEL DECISION

Sanofi v. Vasile Rusu
Case No. D2023-4553

1. The Parties

The Complainant is Sanofi, France, represented by Selarl Marchais & Associés, France.

The Respondent is Vasile Rusu, Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <plavix.monster> is registered with Hosting Concepts B.V. d/b/a Registrar.eu (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 2, 2023. On November 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 3, 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 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 amendment to the Complaint on November 6, 2023.

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 November 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 4, 2023.

The Center appointed Marilena Comanescu as the sole Panelist in this matter on December 6, 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

The Complainant, headquartered in Paris, France was formed as Sanofi-Aventis in 2004 and, changed its name to Sanofi in May 2011, is a multinational company settled in more than 100 countries on all 5 continents and has 100,000 employees. The Complainant engages in research and development, manufacturing and marketing of pharmaceutical products for sale, and is a major player on the worldwide pharmaceutical market.

The Complainant has a large portfolio of high-growth drugs, amongst which Plavix is one of the two leading drugs in the category of thrombosis medicines. The Plavix medicine has been commercialized since 1998, first in the United States of America, currently being available in 115 countries; and to date, over 100 million patients worldwide have been treated with Plavix.

The Complainant owns numerous worldwide trademark registrations for PLAVIX, such as the following:

- the European Union trademark registration number 02236578 for the word PLAVIX, filed on May 29, 2001, registered on April 18, 2002, covering goods in Nice class 5; and
- the International trademark registration number 613041 for the word PLAVIX, registered on December 27, 1993, designating, *inter alia*, the Republic of Moldova, covering goods in Nice class 5.

The Complainant owns numerous domain names incorporating PLAVIX, such as <plavix.com> registered on March 26, 1998, and <plavix.info>.

The disputed domain name <plavix.monster> was registered on January 30, 2023, and, at the time of filing the Complaint, according to Annex 11 to the Complaint, it was used in connection with a website that appears to be a type of “blog” displaying the indication “Plavix”, such as “What You Need to Know about Plavix” and other topics regarding how to take a medication.

When the Panel visited the website under the disputed domain name, it was redirected to a third party’s website under the name “Happy Family Store”, where various drugs were advertised and offered for sale, including purported PLAVIX branded goods.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the cancellation of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known and highly distinctive trademark; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith primarily for the purpose of: trying to unfairly benefit from the Complainant’s reputation and goodwill; disrupting the Complainant’s business; and to tarnish the Complainant’s trademark.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 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 the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The 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.

At the time of filing the Complaint, the disputed domain name was used in relation to a type of “blog” providing apparent information about the Complainant’s product Plavix, without any consent from the Complainant, or a disclaimer disclosing the lack of relationship between the parties. The use of a domain name for informational purposes (in this case, a type of “blog”), could in principle support a respondent’s claim to a legitimate interest under the Policy. However, even a general right to use a domain name for such purposes does not necessarily extend to registering or using a domain name identical to a trademark (i.e., <trademark.tld>, as this creates an impermissible risk of user confusion through impersonation. Here, the composition of the disputed domain name, which is identical to the Complainant’s trademark, carries a high risk of implied affiliation.

Furthermore, when the Panel visited the website under the disputed domain name, the content was changed, and it was directed to an online pharmacy website, promoting various medicines under different brands, including alleged PLAVIX branded drugs. This is not fair use under the “Ok! Data test” (see [WIPO Overview 3.0](#), section 2.8).

Based on the available record, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the Respondent knew of the Complainant’s trademark when it registered the disputed domain name because the Complainant’s trademark and corresponding domain name are registered and used in commerce since 1993, and the Complainant’s mark is well-known worldwide in the pharmaceutical industry.

At the time of filing the Complaint, the disputed domain name was used in relation to a type of “blog” providing apparent information about the Complainant’s product Plavix. As noted earlier, even if the disputed domain name was used for such purposes, noting the disputed domain name is identical to the Complainant’s trademark this creates an impermissible risk of user confusion through impersonation.

Further, with the subsequent redirection to an online pharmacy website, promoting various medicines under different brands, including alleged PLAVIX branded drugs, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant’s well-known trademark registered and used since at least 1993, the website operated under the inherently misleading disputed domain name displayed the Complainant’s trademark and had no disclaimer, indeed in this Panel’s view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website was held, controlled by, or somehow affiliated with or related to the Complainant.

Furthermore, the change of the content on the disputed domain name after the initiation of the present proceeding, into an online pharmacy selling drugs under various brands including PLAVIX, is further evidence of bad faith. Such activities may also disrupt the Complainant's business.

The Respondent had not participated in the present proceeding and provided inaccurate or incomplete contact information in the Whois records (the Written Notice was not able to be delivered by the courier service). Such facts, together with all the other elements in this case, supports, in the eyes of this Panel, a finding of bad faith behavior.

Based on the available record, 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 <plavix.monster> be cancelled.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: December 19, 2023