

## ADMINISTRATIVE PANEL DECISION

Sanofi v. web master, Expired domain caught by auction winner.\*\*\*Maybe for sale on Dynadot Marketplace\*\*\*  
Case No. D2024-4311

### 1. The Parties

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

The Respondent is web master, Expired domain caught by auction winner.\*\*\*Maybe for sale on Dynadot Marketplace\*\*\*, Hong Kong, China.

### 2. The Domain Names and Registrar

The disputed domain names <sarclisaescena.com> and <sarclisasimdose.com> are registered with Dynadot Inc (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which partly differed from the named Respondent (web master, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 28, 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 on November 13, 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 November 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 11, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on December 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 is a French multinational pharmaceutical company with consolidated net sales of EUR 43 billion in 2022. The Complainant operates in more than 100 countries worldwide, in research and development, manufacturing and sale of pharmaceutical products fields. The Complainant is the 4<sup>th</sup> world largest pharmaceutical company by prescription sales and has been awarded important recognitions in its field of activity.

The Complainant is the owner of a large portfolio of trademarks to distinguish its pharmaceutical preparations, among which the following:

- SARCLISA, International Registration No. 1397590, registered on February 9, 2018, for goods in class 5, designating various jurisdictions among which China;

The Complainant is also the owner of the following two trademark applications:

- SARCLISA ESCENA, United States of America ("United States") trademark application No. 98310497 (pending), filed on December 12, 2023 for goods in class 5;

- SARCLISA SIMDOSE, United States trademark application No. 98310475 (pending), filed on December 12, 2023 for goods in class 5.

The Complainant is the registrant of the domain name <sarclisa.com>, registered on July 31, 2017, which is used to promote its activity.

The disputed domain name <sarclisasimdose.com> was registered on December 13, 2023, while the disputed domain name <sarclisaescena.com> was registered on January 22, 2024. Both disputed domain names resolve to parked pages where they are offered for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its marks as they fully incorporate them followed by the generic Top-Level Domain ".com", which has no bearing on the evaluation of the confusing similarity under the first Policy requirement.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant never authorized the Respondent to use its SARCLISA marks in any manner, including as part of the disputed domain names. Moreover, the Complainant has no relationship with the Respondent.

The Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services given that the dispute domain names were registered for the sole purpose of misleadingly diverting consumers and resolve to parked pages where the disputed domain names are offered for sale.

Accordingly, the Respondent is using the disputed domain names to obtain an illegitimate commercial gain.

Lastly, the Complainant maintains that the Respondent has registered and is using the disputed domain names in bad faith. The Complainant asserts that its SARCLISA, SARCLISA ESCENA and SARCLISA SIMDOSE marks are highly distinctive and enjoy extensive reputation. Accordingly, the Respondent is likely to have had actual or at least constructive notice of the existence of the Complainant's marks at the time of the registration of the disputed domain names. This suggests that the Respondent acted with opportunistic bad faith as it registered the disputed domain names to benefit illegitimately from the Complainant's reputation.

With respect to use in bad faith, the Respondent points out that the disputed domain names resolve to parked pages where the disputed domain names are offered for sale. Consequently, the disputed domain names mislead consumers by attracting them to the associated parked pages, proposing the purchase of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

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. In particular, the Complainant has shown that it owns registered rights for the trademark SARCLISA.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "simdose" and "escena", respectively, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Complainant did not license its SARCLISA mark to the Respondent and did not authorize the Respondent to make use of this mark in any manner whatsoever, including as part of the disputed domain names. Moreover, nothing in the case file shows that the Respondent has been commonly known by the disputed domain names.

The Panel further opines that the nature of the disputed domain names carries a risk of implied affiliation. Not only do the disputed domain names incorporate the Complainant's SARCLISA mark, but they also reproduce the terms "SARCLISA SIMDOSE" and "SARCLISA ESCENA" subject to the Complainant's trademark applications. Albeit these applications have not yet issued to registration, they were filed before the dates of creation of the disputed domain names. Hence, both disputed domain names are inherently misleading for consumers looking for the Complainant's products as they entirely reproduce the Complainant's SARCLISA mark, and they are identical to two more recent trademark applications of the Complainant belonging to the SARCLISA family of marks.

Lastly, the Panel notes that the disputed domain names resolve to parking pages where the disputed domain names are offered for sale. The use of the disputed domain names, which are confusingly similar to the Complainant's SARCLISA mark and identical to the Complainant's "SARCLISA SIMDOSE" and "SARCLISA ESCENA" trademark applications, to promote the sale of the disputed domain names cannot amount to a bona fide offering of goods or services or to a noncommercial or fair use of the disputed domain names. Indeed, the Respondent is using the disputed domain names to unduly benefit from the Complainant's mark seeking to capitalize on the inherently misleading nature of the disputed domain names as it relates to the Complainant.

For all the aforementioned circumstances, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

In the present case, the Panel notes that the Respondent was certainly aware of the Complainant's marks and its activities related to the SARCLISA products when it registered the disputed domain names. The SARCLISA mark is inherently distinctive and only associated with the Complainant. Moreover, the disputed domain names are identical to the terms "SARCLISA SIMDOSE" and "SARCLISA ESCENA" subject to the Complainant's trademark applications. The Panel further notes that the disputed domain name <sarclisasimdose.com> was registered one day after the filing of the "SARCLISA SIMDOSE" and "SARCLISA ESCENA" trademark applications, while the disputed domain name <sarclisaescena.com> was registered just a few weeks later. The very short time lapse between the filing date of the "SARCLISA SIMDOSE" trademark application and the registration of the identical disputed domain name <sarclisasimdose.com> is for this Panel a clear indication that the Respondent was aware of the Complainant, the Complainant's pending trademark applications, and sought to target said nascent rights when registering and listing the disputed domain names for sale.

The registration of domain names confusingly similar to the Complainant's mark and targeting the Complainant's nascent trademark rights reinforces the Panel's finding that the Respondent has acted in bad faith.

The Respondent is using the disputed domain names to resolve to parked pages where they are offered for sale. As the disputed domain names entirely reproduce the Complainant's mark SARCLISA and target the Complainant's nascent trademark rights in SARCLISA SIMDOSE and SARCLISA ESCENA, their use as an offer for sale to seek an economic advantage and unduly capitalize on the Complainant's rights amounts to use in bad faith. Accordingly, noting the lack of response, the Panel finds that the Respondent has registered the disputed domain names primarily for the purpose of selling them to the Complainant or to other third parties for valuable consideration likely in excess of the documented out-of-pocket costs directly related to the disputed domain names. Moreover, as the Respondent registered the disputed domain name <sarclisasimdose.com> only one day after the Complainant's filing of the corresponding trademark application for "SARCLISA SIMDOSE", and a few weeks later registered the disputed domain name <sarclisaescena.com>, which is identical to the "SARCLISA ESCENA" trademark application, the Panel finds that the Respondent registered the disputed domain names to prevent the Complainant from reflecting its marks in corresponding domain names.

In light of the foregoing, 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 names <sarclisaescena.com> and <sarclisasimdose.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: January 1, 2025