

ADMINISTRATIVE PANEL DECISION

Sanofi v. Jiying Luo

Case No. D2022-0502

1. The Parties

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

The Respondent is Jiying Luo, Philippines.

2. The Domain Name and Registrar

The disputed domain name <plavixmed.com> is registered with Dynadot, LLC (the “Registrar”), the United States.

3. Procedural History

The Complaint was filed against a privacy service with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2022 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 February 17, 2022.

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 February 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2022.

The Center appointed Cherise Valles as the sole panelist in this matter on March 21, 2022. 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 headquartered in Paris, France. The Complainant ranks as the world's fourth largest multinational pharmaceutical company by prescription sales. The Complainant has a presence in more than 100 countries on all five continents employing 100,000 people (Annex 6.1), with consolidated net sales of EUR 36.04 billion in 2020 (Annex 5). The Complainant engages in research and development, manufacturing and marketing of pharmaceutical products for sale, principally in the prescription market, but the firm also develops over-the-counter medications.

the Complainant is a full member of the European Federation of Pharmaceutical Industries and Associations (EFPIA). Historically, the company was formed as Sanofi-Aventis in 2004 by the merger of Aventis and Sanofi-Synthélabo, and changed its name to Sanofi in May 2011.

The Complainant offers a wide range of patented prescription drugs to treat patients with serious diseases. It has developed medications in seven major therapeutic areas, namely cardiovascular, thrombosis, metabolic disorders, oncology, central nervous system, internal medicine and vaccines (Annex 6.4).

The Complainant offers a wide range of pharmaceutical products, among which PLAVIX, which is one of the leading drugs in the category of thrombosis medicines. PLAVIX is an anti-platelet agent indicated for a number of atherothrombotic conditions. The Complainant sells a drug under the trademark PLAVIX to be used for the reduction of recurrence after an ischemic cerebrovascular disorder.

Plavix is one of the world's 10 leading medicines, and to date, over 100 million patients throughout the world have been treated with Plavix.

Plavix was first commercialized in 1998 in the United States. Plavix is currently available in over 115 countries.

The Complainant is the owner of the following trademarks, among others:

- French trademark PLAVIX number 93484877, registered on July 28, 1993 in class 5 in relation with pharmaceutical products (Annex 8.1);
- International trademark PLAVIX number 613041, registered on December 27, 1993 in class 5 in relation with pharmaceutical products and designating among others Austria, Benelux, Bulgaria, China, Germany, Spain, Czech Republic, Hungary, Morocco, Portugal, Romania, Russian Federation, Slovenia, Ukraine and Viet Nam (Annex 8.2);
- French trademark number 97710388, registered on December 19, 1997 in class 5 in relation with pharmaceutical products (Annex 8.3);
- International trademark PLAVIX number 694151, registered on June 16, 1998 in class 5 in relation with pharmaceutical products and designating among others Uzbekistan, Bulgaria, Benelux, Belarus, Switzerland, Cuba, Czech Republic, Germany, Algeria, Spain, Hungary, Italy, Poland, Portugal, Romania, Russian Federation, Slovakia, Ukraine and Viet Nam (Annex 8.4);
- European Union trademark PLAVIX number 002236578, filed on May 29, 2001 and registered on April 18, 2002 in class 5 in relation with pharmaceutical products (Annex 8.6);
- United Kingdom trademark PLAVIX number 2068394, registered on June 10, 1997 in class 5 in relation with pharmaceutical products (Annex 8.7);
- Hong Kong, China trademark PLAVIX number 200009525, registered on July 30, 1998, in class 5 in relation with pharmaceutical products (Annex 8.8);
- United States trademark PLAVIX number 2042583, registered on March 11, 1997 in class 5 in relation with pharmaceutical products (Annex 8.9);

- Canadian trademark PLAVIX number TMA509097, registered on March 10, 1999 in class 5 in relation with pharmaceutical products (Annex 8.10);
- Japanese trademark PLAVIX number 4170873 registered on July 24, 1998 in class 5 in relation with pharmaceutical products (Annex 8.11);
- Chinese trademark PLAVIX number 1386354 registered on April 21, 2000 in class 5 in relation with pharmaceutical products (Annex 8.12).

The Complainant is also the owner of the following domain names among others (Annex 9):

- <plavix.com> registered on March 26, 1998 (Annex 9.1);
- <plavix.fr> registered on May 30, 2002 (Annex 9.2);
- <plavix.us> registered on May 16, 2002 (Annex 9.3);
- <plavix.net> registered on November 19, 1999 (Annex 9.4);
- <plavix.ca> registered on May 1, 2004 (Annex 9.5);
- <plavix.info> registered on August 24, 2001 (Annex 9.6);
- <plavix.org> registered on October 20, 1999 (Annex 9.7);
- <plavix.tel> registered on March 17, 2009 (Annex 9.8);
- <plavix.pl> registered on May 30, 2002 (Annex 9.9);
- <plavix.cn> registered on May 24, 2006 (Annex 9.10).

All of the above-mentioned trademarks and domain names containing the distinctive term “plavix” were registered internationally prior to the registration of the disputed domain name <plavixmed.com> (Annex 1). The complainant has used its PLAVIX trademarks for over 15 years and has invested substantial financial resources over the years to advertise and promote the company and its PLAVIX-branded pharmaceutical products all over the world.

The disputed domain name was registered on January 15, 2022. The disputed domain name is registered with Dynadot, LLC.

The disputed domain name appears to lead to a website associated with pornography and gambling (Annex 11).

5. Parties' Contentions

A. Complainant

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

- The disputed domain name is confusingly similar to the Complainant's registered PLAVIX trademark, in light of the fact that it wholly incorporates the Complainant's mark.

The Respondent lacks rights or legitimate interests in the disputed domain name.

- The Complainant states that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name that included its trademarks.

The disputed domain name has been registered and is being used in bad faith.

- The Complainant asserts that the disputed domain name was registered and is being used in bad

faith. The mere fact of registration of a domain name that is confusingly similar or identical to a famous trademark by an entity that has no relationship to that mark is itself evidence of bad faith registration and use. Furthermore, the Respondent's use of the disputed domain name to lead to a gambling and pornographic website is clear evidence of bad faith.

The Complainant requests the Panel to issue a decision finding that the disputed domain name be transferred to the Complainant, in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In terms of paragraph 4(a) of the Policy, for a Complaint to succeed, the Complainant must prove each of the following elements:

- (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 Respondent has failed to file a Response in this proceeding. The Panel may draw appropriate inferences from the available evidence submitted by the Complainant.

A. Identical or Confusingly Similar

To prove this element, the Complainant must have relevant UDRP rights in a trademark and the disputed domain name must be identical or confusingly similar to such trademark.

The Complainant submits that the disputed domain name is confusingly similar to the trademark in which it has rights. The disputed domain name incorporates the PLAVIX trademark in its entirety with the addition of the term "med". Given the Complainant's trademark registrations as detailed above, the Panel finds that the Complainant has established its trademark rights in PLAVIX for the purposes of paragraph 4(a)(i) of the Policy.

As stated in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Complainant asserts that the disputed domain name is confusing similar to its registered trademarks. The disputed domain name incorporates the Complainant's trademark in its entirety with the addition of the term "med", which is an abbreviation for "medicine".

In the present case, the inclusion of the term "med" in the disputed domain name together with the trademark PLAVIX, which is recognizable, would not prevent a finding of confusing similarity under the first element.

It is standard practice when comparing a disputed domain name to a complainant's trademark not to take the Top-Level Domain ("TLD") into account. See section 1.11.1 of the [WIPO Overview 3.0](#), which states that the "applicable 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 of the confusing similarity test". In the

present case, the TLD “.com” is disregarded under the first element of the confusing similarity test.

In the light of the foregoing, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark and that the Complainant has met its burden with respect to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a non-exhaustive set of circumstances, any of which, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate a respondent’s rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy, namely:

“[a]ny of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, whether on the basis of the non-exhaustive examples set out in paragraph 4(c) of the Policy or on any other basis, and the Panel draws inferences from this failure, where appropriate, in accordance with paragraph 14(b) of the Rules.

It is recognised in cases under the Policy that it is sufficient for a complainant to make a *prima facie* case under the second element of the Policy, not rebutted by the respondent, that the respondent has no rights or legitimate interests in the domain name concerned (see, for example, *LinkedIn Corporation v. Privacy service provided by Withheld for Privacy ehf / Scrap LinkedIn*, WIPO Case No. [DIO2021-0019](#); *Bayerische Motoren Werke AG v. Domain Privacy Ltd/ DNS Admin*, WIPO Case No. [DIO2021-0012](#); and the discussion in section 2.1 of the [WIPO Overview 3.0](#)). If a respondent fails to rebut such a *prima facie* case by demonstrating rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy, or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, it appears that the Complainant has established the requisite *prima facie* case. The Respondent has no prior rights nor legitimate interests to justify its use of the Complainant’s well-known trademarks.

The Complainant asserts that it has never licensed or otherwise authorized the Respondent to use its trademarks or to register any domain name including the above-mentioned trademarks. Consequently, it claims that the Respondent has clearly modified the Complainant’s trademarks for its own use and incorporated them into his domain name without the Complainant’s authorization.

On the evidence before the Panel, it appears that there has never been any relationship between the Complainant and the Respondent. The Respondent does not seem to be licensed, or otherwise authorized, be it directly or indirectly, to register or use the Complainant’s PLAVIX trademark in any manner, including in, or as part of, the disputed domain name.

The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy in order to demonstrate rights or legitimate interests in the disputed domain name. In particular, the Respondent cannot assert that, prior to any notice of this dispute, he was using, or had made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy.

The Complainant asserts that the Respondent is not making a legitimate noncommercial or fair use of the domain name nor is it using the disputed domain name in connection with a *bona fide* offering of goods or services, so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy. Indeed, from the images presented in Annex 11, it appears that the disputed domain name seems to lead to a gambling and pornographic website, which has been registered only for the purposes of attracting Internet users to click on the sponsored links/ advertising banners related to pornography and gambling.

Furthermore, the nature of the disputed domain name, consisting of the Complainant's PLAVIX mark and an additional term, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

In light of the foregoing, the Panel finds that the Complainant has established an unrebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and concludes that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

For this element, the Complainant is required to prove that the disputed domain name was registered or that it was used in bad faith. The term "bad faith" is "broadly understood to occur where a respondent takes unfair advantage of, or otherwise abuses, a complainant's mark". See section 3.1 of the WIPO Overview. Paragraph 4(b) of the Policy sets out four non-exhaustive examples of circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, namely:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typographical errors or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Given the famous and distinctive nature of the mark PLAVIX, the Respondent is likely to have had knowledge, or at least should have known, the Complainant's marks at the time it registered the disputed domain name. As noted by the panel in *Sanofi v. Bo Li*, (WIPO Case No. [D2013-1971](#)), "[t]aking into account the worldwide reputation of the Complainant and its SANOFI trade mark, as well as the market

presence of the Complainant in numerous countries including China, (...) the Panel finds that it is not conceivable that the Respondent would not have had actual notice of the Complainant's trade mark rights at the time of the registration of the disputed domain name". In the present case, the Panel notes that the PLAVIX trademark would be well-known in the Philippines.

Furthermore, the nature of the disputed domain name, consisting of the Complainant's trademark with the addition of the term "med", carries a risk of implied affiliation and cannot constitute fair use as it suggests sponsorship or endorsement by the Complainant. In the present case, the Respondent seeks to attract Internet users interested in the [product] to its website by creating a likelihood of confusion with the Complainant's trademark.

The disputed domain name currently resolves to an active website (Annex 11). It appears that the disputed domain name has been registered for the purpose of attracting Internet users to the Respondent's website by creating a likelihood of confusion between PLAVIX trademarks and the disputed domain name.

The website associated with the disputed domain name constitutes an example of pornography and gambling squatting in which confusion with a well-known trademark is used to divert customers to a pornographic website for commercial purposes. This type of squatting constitutes a textbook example of registration in bad faith. See *AXA SA v. Ruben Weiner*, WIPO Case No. [D2014-0458](#).

The Respondent has not participated in the administrative proceeding and has not answered the Complainant's contentions. The fact that the Respondent has decided not to provide any legitimate explanation or to assert any alleged good faith motivation in respect of the registration or use of the disputed domain name in the face of the Complainant's contentions, and in the circumstances of this case, can be regarded as a further indicator affirming the bad faith – see, for example, *Government Employees Insurance Company ("GEICO") v. Ken Williams, WJS, P.C.*, WIPO Case No. [D2021-3460](#).

Accordingly, the Panel concludes that the Complainant has satisfied its burden of showing bad faith registration and use of the disputed domain name under paragraph 4(a)(iii) 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 <plavixmed.com> be transferred to the Complainant.

/Cherise Valles/

Cherise Valles

Sole Panelist

Date: April 4, 2022