

ADMINISTRATIVE PANEL DECISION

Sanofi v. PUSAT CUAN

Case No. D2023-4512

1. The Parties

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

The Respondent is PUSAT CUAN, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <plaquenilus.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy Privacy service provided by Withheld for Privacy ehf) 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 amended 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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. On November 24, 2023, the Respondent sent an informal email to the Center. On December 11, 2023, the Center notified the Commencement of Panel appointment process.

The Center appointed Nicholas Smith as the sole panelist in this matter on December 27, 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 is a French multinational pharmaceutical company that, ranked by prescription sales, is the 4th largest pharmaceutical company in the world. The Complainant trades in over 100 countries and employs over 100,000 people. One of its medicinal products is the drug hydroxychloroquine, which is used for various purposes and has recently been approved by European authorities to treat patients with COVID-19. The Complainant has sold this product for over 30 years under a trade mark consisting of the word "Plaquenil" (the "PLAQUENIL Mark").

The Complainant holds a number of registered trade marks for the PLAQUENIL Mark including French trade mark registration number 1480756 filed on May 27, 1988, for pharmaceutical products in class 5.

The Domain Name was registered on September 30, 2023. The Domain Name resolves to a website purportedly offering gaming services, a use unrelated to any descriptive meaning of the Domain Name.

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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the PLAQUENIL Mark, having registered the PLAQUENIL Mark in France and various other jurisdictions. The Domain Name is confusingly similar to the PLAQUENIL Mark as it reproduces the PLAQUENIL Mark and adds the additional element "us" (an abbreviation for the United States of America) (along with the ".com" generic Top-Level Domain).
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the PLAQUENIL Mark. The Respondent is not commonly known by the Domain Name, nor does it use the Domain Name in connection with a *bona fide* offering of goods or services. Instead, the Respondent uses the Domain Name to take advantage of the reputation of the Complainant's iconic PLAQUENIL Mark to drive traffic to commercial site unrelated to any meaning of the Domain Name, for which it is likely to receive revenue. Such use of the Domain Name cannot and does not constitute *bona fide* commercial use, sufficient to legitimize any rights or interests the Respondent might have in the Domain Name and therefore the Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.
- c) Given the reputation of the Complainant and the PLAQUENIL Mark, the Respondent must have been aware of the Complainant at the time it registered the Domain Name. By using the Domain Name to resolve to a commercial website for which it likely receives revenue, the Respondent is using the Domain Name to divert Internet users searching for the Complainant for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions but sent an informal email to the Center on November 24, 2023 in which he stated "Hello , i've been receive noticed you send to my address , what should i do with the domain ?". The Respondent did not send any further communication to the Center.

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 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 Domain Name is 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 "us", may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

Specifically, given the reputation of the PLAQUENIL Mark, and the lack of any explanation or evidence behind the Respondent's selection and use of the Domain Name, the Panel finds that the use of the Domain Name to resolve to a commercial website (a website purporting to offer gambling content) unrelated to any dictionary meaning of the Domain Name (for which the Respondent is likely to receive revenue) does not amount to use in connection with a *bona fide* offering of goods and services.

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.

The Domain Name, which wholly incorporates the coined and well-known PLAQUENIL Mark, resolves to a page purporting to offer gaming services, a use unrelated to any descriptive meaning of the Domain Name for which the Respondent most likely would receive commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the Domain Name, the Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the PLAQUENIL Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 Domain Name <plaquenilus.com> be cancelled.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: January 8, 2024