

ADMINISTRATIVE PANEL DECISION

Sanofi v. Kiril Mordasov

Case No. D2022-0510

1. The Parties

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

The Respondent is Kiril Mordasov, the Russian Federation.

2. The Domain Names and Registrar

The disputed domain names <plaquenilc.com>, <plaquenild.com> and <plaquenilpls.com> (the “Disputed Domain Names”) are 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 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 Names. On February 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 amended Complaint on February 21, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on March 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on March 25, 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 that operates a life sciences business in more than 100 countries with consolidated net sales in 2020 of more than EUR 36 billion. The Complainant holds registrations for the trademark PLAQUENIL in a number of countries, which it uses to designate a medicinal product containing *hydroxychloroquine*, including, for example, French trademark No. 1480756, filed for the mark PLAQUENIL in relation to pharmaceutical products in class 5 on May 27, 1988 and European Union trademark PLAQUENIL No. 000 041 962, filed on April 1, 1996 and registered on November 27, 1998 in class 5..

The Complainant owns a number of domain names that comprise of, or contain, the trademark PLAQUENIL, including the domain name <plaquenil.com>, which was registered on October 28, 1998.

The Disputed Domain Name <plaquenilc.com> was registered on December 25, 2021, the Disputed Domain Name <plaquenild.com> was registered on December 18, 2021 and the Disputed Domain Name <plaquenilpls.com> was registered on December 17, 2021. Each resolved to a website where putative PLAQUENIL branded medication was offered for sale online.

5. Parties' Contentions

A. Complainant

The Complainant cites its trademark registrations for PLAQUENIL in various countries as *prima facie* evidence of ownership.

The Complainant submits that the trademark PLAQUENIL is highly distinctive and that its rights in that trademark predate the Respondent's registration of the Disputed Domain Names by some 33 years. It submits that the Disputed Domain Names are confusingly similar to its trademark, because the Disputed Domain Names incorporate in their entirety the PLAQUENIL trademark and that the confusing similarity is not affected by the addition, respectively, of the letters "c" or "d" or "pls", and addition of the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names and that "The Respondent has therefore clearly adopted the Complainant's trademarks and domain names for its own use and incorporated them into his domain names in order to confuse Internet users into believing the Respondent is linked to the Complainant, which in any case does not constitute a *bona fide* offering of goods and services."

Finally, the Complainant alleges that the registration and use of the Disputed Domain Names was, and currently is, in bad faith, contrary to the Policy and the Rules. It submits that "the trademark PLAQUENIL has recently been under the spotlight within the frame of the COVID-19 pandemic" and "has been registered in bad faith by the Respondent, for the primary purpose of gaining unfair benefit of the Complainant's reputation". The Complainant also alleges that "the Respondent has intentionally attempted to attract, Internet users by creating a likelihood of confusion with the Complainant's mark and company name as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or other location, and this constitutes evidence of bad faith".

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark PLAQUENIL. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Names are identical or confusingly similar to the PLAQUENIL trademark, the Panel observes that the Disputed Domain Names comprise:

- In the case of <plaquenilc.com> (a) an exact reproduction of the Complainant's PLAQUENIL trademark; (b) followed by the letter "c"; and (c) followed by the gTLD ".com".
- In the case of <plaquenild.com> (a) an exact reproduction of the Complainant's PLAQUENIL trademark; (b) followed by the letter "d"; and (c) followed by the gTLD ".com".
- In the case of <plaquenilpls.com> (a) an exact reproduction of the Complainant's PLAQUENIL trademark; (b) followed by the letters "pls"; and (c) followed by the gTLD ".com".

It is well established that the gTLD used as technical part of a domain name may be disregarded (see section 1.11 of the [WIPO Overview 3.0](#)). The gTLD chosen appears to have no special significance in this proceeding. The relevant comparison to be made is with the second-level portion of each Disputed Domain Name, specifically: "plaquenilc", "plaquenild" and "plaquelnpls", respectively.

It is also well established that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Names. The Policy also places the burden of proof on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Names. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need

only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because it has not licensed, permitted or authorized the Respondent to use the Complainant's trademark and for that reason the Respondent is not making a *bona fide* offering of goods or services. The Complainant submits that "the absence of any authorization by the Complainant and the lack of legitimate reason in the use of the domain name at stake both prove that the Respondent has no rights or legitimate interest in respect of the domain name."

The Respondent is not an authorized reseller with legitimate interests in a domain name incorporating a Complainant's mark, and there is no disclaimer on the identical website each Disputed Domain Name resolves to, therefore it cannot meet the tests set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Nor, alternatively, is the Respondent commonly known by any of the Disputed Domain Names. The Panel accepts the Complainant's uncontested submission that the Disputed Domain Names "lead to an commercial websites selling presumably fake PLAQUENIL goods. Indeed, by clicking on "Buy Safe" button, the Internet user is redirected to websites, through which an Internet users can buy pharmaceutical products at a discounted price."

This Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because it is engaging in an illegitimate commercial use of the Disputed Domain Names by suggesting some association with the Complainant for the purpose of misleading consumers based on users seeking out the Complainant's mark PLAQUENIL and opportunistically using the Complainant's trademark to divert Internet traffic to its web pages.

The Panel finds for the Complainant on the second element of the Policy

C. Registered and Used in Bad Faith

The third element of the Policy that a complainant must also demonstrate is that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both.

The evidence that the Respondent has registered and used the Disputed Domain Names in bad faith is overwhelming. This Panel finds it most unlikely that the Respondent might have registered the Disputed Domain Names without knowing of the trademark (see *Sanofi v. WhoisGuard, Inc. / James Plante*, WIPO Case No. [D2020-0797](#) "The PLAQUENIL Mark consists of a coined word that has been in use by the Complainant for over 30 years to refer to the drug hydroxychloroquine. The Respondent has provided no explanation, and none is immediately obvious, why an entity would register a domain name identical to the PLAQUENIL Mark and redirect it to a website containing links referring to the drug hydroxychloroquine unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its PLAQUENIL Mark.") Previous UDRP panels have held that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

Further, a gap of several years between registration of the Complainant's trademark and the Respondent's registration of the Disputed Domain Names (containing the trademark) can in certain circumstances be an indicator of bad faith (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. D2007 1415). In this case, the Complainant's rights in its trademark predate any rights that could possibly flow from the Respondent's registration by some 33years.

On the issue of use, the Panel notes that the Disputed Domain Names were used to resolve to an online website that purportedly offered a pharmaceutical product for sale. In line with prior UDRP panel decisions, the Panel finds that the obvious danger of online consumers being afforded inaccurate, incomplete or misleading information about medical products, services, and applications and the probable diversion of actual sales reinforces the Respondent's bad faith (see *Lilly ICOS LLC v. Tudor Burden, Burden Marketing*, WIPO Case No. [D2004-0794](#); *Roche Products Inc. v. Michael Robert*, WIPO Case No. [D2008-1155](#)).

This Panel finds that the Respondent has taken the Complainant's trademark PLAQUENIL and incorporated it in the Disputed Domain Names without the Complainant's consent or authorization, for the very purpose of capitalizing on the reputation of the trademark by diverting Internet users for commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 Names <plaquenilc.com>, <plaquenild.com> and <plaquenilpls.com> be transferred to the Complainant.

/Nicholas Weston/
Nicholas Weston
Sole Panelist
Date: April 6, 2022