

ADMINISTRATIVE PANEL DECISION

Sanofi v. Mohammad Farhan, Tramadol Medicine
Case No. D2022-0939

1. The Parties

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

The Respondent is Mohammad Farhan, Tramadol Medicine, India.

2. The Domain Name and Registrar

The disputed domain name <ambienmedicine.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2022. The Respondent did not file a formal Response but sent an email to the Center on April 6, 2022 requesting to implement a settlement. On April 20, 2022, at the request of the Complainant, the administrative proceeding was suspended until May 20, 2022. On May 25, 2022, further to the Complainant’s request, the administrative proceedings was reinstated.

The Center appointed James Wang as the sole panelist in this matter on June 7, 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, and has presence in more than 100 countries.

The Complainant engages in research and development, manufacturing and marketing of pharmaceutical products for sale, principally in the prescription market, but also develops over-the-counter medication. The Complainant offers a wide range of patented prescription drugs and has leading positions in a number of major therapeutic areas.

The Complainant has obtained numerous AMBIEN trademark registrations in different jurisdictions, including but not limited to the following:

- French trademark registration No. 93456039, registered on February 19, 1993 in class 5;
- European Union trademark registration No. 003991999, registered on November 28, 2005 in class 5;
- Indian trademark registration No. 763411, filed on June 24, 1997 in class 5;
- International trademark registration No. 605762, registered on August 10, 1993 in class 5.

The Complainant is also the owner of the following domain names:

- <ambien.com> registered on April 12, 2000;
- <ambien.net> registered on April 12, 2000;
- <ambien.info> registered on August 24, 2001; and
- <ambien.org> registered on April 12, 2000.

The disputed domain name was registered on March 2, 2022.

The disputed domain name is directed to a website selling medicines and notably demonstrating AMBIEN zolpidem tartrate tablets as a "Best Seller".

5. Parties' Contentions

A. Complainant

The Complainant contended as follows:

The disputed domain name is identical or confusingly similar to the AMBIEN trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions, only sent an email to the Center on April 6, 2022 requesting to implement a settlement, as mentioned in the above section 3.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it has obtained numerous AMBIEN trademark registrations in different jurisdictions.

The disputed domain name incorporates the entirety of the AMBIEN trademark. As the AMBIEN trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's AMBIEN trademark. The term "medicine" added into the disputed domain name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.8.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

According to the Complaint, the Complainant has never licensed or otherwise authorized the Respondent to use the Complainant's trademarks or to register any domain name containing the Complainant's AMBIEN trademark. The Respondent's name does not bear any resemblance with the word AMBIEN and the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods. The Respondent submitted no response to these allegations of the Complainant.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant has provided evidence that the AMBIEN trademark is well known worldwide in the industry of medicines.

Given the high reputation and the distinctive nature of the Complainant's trademark AMBIEN, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's trademark at the time of the registration. This is reinforced by the fact that the additional term, namely 'medicine', refers to the Complainant's core product. The Panel therefore agrees with the Complainant's contention that the disputed domain name was registered in bad faith.

The Complainant has also provided evidence that the disputed domain name directs Internet users to a website selling medicines and notably demonstrating AMBIEN zolpidem tartrate tablets as a "Best Seller", which clearly indicates an effort to create confusion with the Complainant and disrupt the Complainant's business. As such, the Panel agrees with the Complainant's contention that the Respondent is using the disputed domain name in bad faith.

The Panel therefore finds that the Complaint has satisfied 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 <ambienmedicine.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: June 21, 2022