

ADMINISTRATIVE PANEL DECISION

Laboratoires Sterop S.A. v. Belaid Louahrani, Laboratoires Sterop LLC
Case No. D2022-2828

1. The Parties

The Complainant is Laboratoires Sterop S.A., Belgium, represented by Fieldfisher LLP, Belgium.

The Respondent is Belaid Louahrani, Laboratoires Sterop LLC, United Arab Emirates (“UAE”), represented by Crowell & Moring LLP, Belgium.

2. The Domain Name and Registrar

The disputed domain name <sterop.net> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 2022. On August 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 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 August 10, 2022. The Center requested the Complainant to further rectify the amended Complaint to specify the remedy requested on August 22, 2022. The Complainant filed a second amended Complaint on August 23, 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 August 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2022. The Respondent submitted a request for an extension for response which was granted by the Center and the due date for Response was extended to September 17, 2022 in accordance with paragraph 5(b) of the Rules. The Response was filed with the

Center on September 17, 2022. The Complainant submitted an unsolicited supplemental filing on September 27, 2022 to which the Respondent responded by email on September 29, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on October 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. Preliminary Issues

A. Identity of the Respondent

The Complaint as originally filed specified the Whols-named registrant as the Respondent, being a privacy and proxy service operated by the Registrar. The Registrar having subsequently disclosed the identity of the underlying registrant, and the Panel being satisfied that the privacy and proxy service is not further related to the underlying registrant or the use of the disputed domain name, the Panel determines that the Registrar-disclosed registrant shall be the sole Respondent in the proceeding (see *e.g.*, section 4.4.5 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In its Complaint, the Complainant makes separate submissions in respect of both the Whols-named registrant and the Registrar-disclosed registrant concerning the matters to be established under subparagraphs 4(a)(ii) and (iii) of the Policy. In view of its determination above, the Panel disregards those submissions as are made only in respect of the Whols-named registrant.

The Complainant further submits that, since the Registrar-disclosed registrant was Belaid Louahrani and not the Respondent company, the Response should be found inadmissible as having been submitted by the wrong party. The Panel sees no merit whatsoever in this argument: the Notice of Registrant Information as provided by the Center to the Complainant specified the registrant name as Belaid Louahrani and the registrant organization as the Respondent company and it is clear in these circumstances that the Respondent company is a proper respondent.

B. Unsolicited Supplemental Filings

The Complainant submitted an unsolicited supplemental filing in this proceeding following the filing of the Response and the Respondent submitted an unsolicited supplemental filing in response to the Complainant's said submission. Save in exceptional circumstances, panels are reluctant to accept the submission of unsolicited supplemental filings in the interests of the efficient disposition of proceedings, but such filings may be permitted in circumstances where matters raised in a party's original filing could not reasonably have been anticipated by the other party at an earlier stage (see *e.g.*, section 4.6 of [WIPO Overview 3.0](#)). In the circumstances of this case, the Panel exercises its discretion to admit the unsolicited supplemental filings of both parties.

5. Factual Background

The Complainant is a company registered under the laws of Belgium. It is a pharmaceutical group, developing a range of goods including pharmaceutical products, medical devices, food supplements, and hygiene products.

The Complainant is the owner of various registrations for the trademark STEROP. Those registrations include, for example:

- Benelux trademark registration number 314423 for the word mark STEROP, registered as of November 20, 1972 for pharmaceutical products in International Class 5;

- European Union Trade Mark registration number 010942191 for the word mark STEROP, registered on October 22, 2012 for pharmaceutical products in International Class 5; and

- UAE trademark registration number AE/318852 for the word mark STEROP, registered on February 18, 2020 for pharmaceutical products in International Class 5.

The Complainant claims additional trademark registrations for the name STEROP, including International, United Kingdom, Saudi Arabian, and Nigerian trademarks.

The Respondent registrant organization, Laboratoires Sterop LLC, is a company registered under the laws of the UAE with a formation date of July 25, 2019. Its stated purposes include: “dietary supplements, wholesale trade”, “wholesale of medication trading” and “retail sale of medical equipment and apparatuses”.

The disputed domain name was registered on August 15, 2019.

The Respondent is the owner of UAE trademark registration number AE/320976 for the figurative mark depicted below (“the Figurative Mark”), registered on March 1, 2020 in International Class 5.



The disputed domain name has resolved to a website which identifies the Respondent and prominently displays the Figurative Mark. The website states: “Welcome to the website of Laboratoires Sterop LLC, United Arab Emirates”, and further: “We are involved in the business of supplying pharmaceutical products, medical equipment and medical disposable items. Our main customers are government hospitals, health centers and private medical centers. We are striving to gain the attention and confidence from both sectors as a supplier that seriously takes great care of pre sales and after sales service.”

6. Parties’ Contentions

A. The Complaint

The Complainant states that it was founded in 1947. It refers to its trademark registrations mentioned above and submits that it has continuously and intensively used those trademarks to develop its business activities. It refers also to its website at “www.sterop.be”, which it says was created in May 2001, and its domain name <sterop.eu>, registered in May 2011, which resolves to that website.

The Complainant submits that the disputed domain name is identical or confusingly similar to its STEROP trademark, since it comprises the whole of that trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It submits that in December 2018 it authorized a company named Laboratoires Sterop FZ-LLC to develop its scientific activities in the UAE. It contends, however, that that company ceased to trade and that the Respondent organization is a different company, which was never authorized by the Complainant.

The Complainant states that it has terminated its commercial relationship with the Respondent and has twice since notified it to stop using the name “Sterop”. It exhibits two letters in this regard, but these (in common with numerous other documents exhibited by both parties) are provided in the French language without any translation.

The Complainant submits that “Complainant and Respondent [...] have no relationship whatsoever” and that the Respondent had no authorization from the Complainant to use the STEROP trademark or to register any domain name incorporating that trademark.

The Complainant submits that its trademark STEROP is an invented term which has no common significance. It contends that the Complainant is the only organization able legitimately to use the STEROP trademark. It states that the Respondent is barred from offering the goods at issue under the STEROP mark and that it is committing fraud by misleading customers and the relevant authorities by falsely suggesting an affiliation with the Complainant.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent clearly knew of the Complainant’s longstanding STEROP trademark, and that its use of that mark without the Complainant’s express consent represents bad faith. The Complainant submits that the Respondent has appropriated not only its trademark STEROP, for use in the same business sector as its own, but also its proprietary logo, namely the Figurative Mark. (While the Complainant exhibits a page from its own website including the Figurative Mark together with the suffix “group”, it does not at this juncture provide any evidence of when this logo was first used by the Complainant).

The Complainant submits in the circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of products or services on the Respondent’s website.

The Complainant requests the transfer of the disputed domain name.

B. The Response

The Respondent Laboratoires Sterop LLC submits that, contrary to the Complainant’s assertions, it was established with the full knowledge and approval of the Complainant and has made extensive good faith use of the STEROP mark in Nigeria and the UAE. It also relies on its own UAE registration of the Figurative Mark as referred to above. The Respondent claims that the disputed domain name was also registered with the Complainant’s “unequivocal consent” and that the parties made co-existing use of the STEROP mark until the Complainant unilaterally decided to terminate their commercial relationship.

The Respondent makes detailed submissions as to the Complainant’s corporate structure and submits that it is mainly a manufacturer and not a distributor of medicines. It states that the Complainant’s presence outside Belgium is through a network of licensees and distributors and that the Respondent is a distribution company active in the UAE.

The Respondent makes submissions as to its own corporate history and states that its founder, Belaid Louahrani, had been an active seller of the Complainant’s products prior to the establishment of the Respondent and was “trusted advisor” to the Complainant.

The Respondent submits that it is vibrant company with seven employees and a key player in the field of distributing pharmaceuticals in the UAE. It states in particular that it has an excellent relationship with the UAE health authorities.

The Respondent submits that the following companies were incorporated with the full knowledge and approval of the Complainant or its controlling individuals:

- Laboratoires Sterop Nigeria Ltd, which was established in January 2017 and which purchased goods from the Complainant. The Respondent exhibits invoices issued by the Complainant to that company.

- Laboratoires Sterop FZ-LLC, which was established in May 2019 in respect of activities in the UAE. The Respondent submits that, contrary to the Complainant’s assertions, this company remains fully operational

and active. It exhibits evidence of current activities, including confirmation of employers' liability insurance for the calendar year 2022.

- The Respondent company, which is partly owned by Laboratoires Sterop FZ-LLC, and was established to sell products in the UAE inland, whereas Laboratoires Sterop FZ-LLC could only operate in the UAE's "free zone".

The Respondent submits that a director of the Complainant is the owner of 20 per cent of the shares in Laboratoires Sterop FZ-LLC and therefore an indirect owner of shares in the Respondent itself. The Respondent submits evidence of a share transfer to that effect dated April 14, 2020. The Respondent contends that it follows from the above that the Complainant was aware of, and consented to, the formation of the Respondent and its co-existence with the Complainant.

The Respondent exhibits a series of 17 purchase orders submitted by the Respondent to the Complainant, dated between October 1, 2019 and January 5, 2022. All of these orders are on the headed paper of the Respondent, which clearly shows its name and address and also prominently displays the Figurative Mark. The purchase orders also include the website "www.sterop.net" and bear the Respondent's company seal, which again includes its name and the Figurative Mark.

The Respondent says that in the light of these purchase orders, and also its use of the website at the disputed domain name, its application for the Figurative Mark and emails passing between the parties, it is "unintelligible" that the Complainant claims to have had no relationship with the Respondent or that the Respondent has acted without the Complainant's consent.

The Respondent states that the Complainant unilaterally and unexpectedly terminated the business relationship between the parties at a meeting on June 4, 2022.

The Respondent submits that the termination of the business relationship does not, however, prevent the Respondent from carrying on its business. It states that the Respondent has many commercial relationships with clients worldwide (examples of which it provides) and that these relationships do not require the collaboration of the Complainant. The Respondent further submits that the Complainant's actions do not prejudice its independent use of the STEROP trademark or its ownership of the Figurative Mark. The Respondent contends that its ownership of the Figurative Mark alone takes this dispute outside of the scope of proceedings under the UDRP.

The Respondent submits, in the circumstances, that it was commonly known by the disputed domain name prior to notice of the present dispute and that it has made good faith use of the disputed domain name without intent to cause confusion or tarnish the Complainant's trademark. It states that it is principally a distributor of pharmaceuticals whereas the Complainant is a manufacturer and that the differences are readily apparent from the parties' respective websites. It contends that the Complainant's allegations that it is a "fraudulent" company and has acted in bad faith are manifestly false.

The Respondent submits that other, third party, entities have obtained trademark registrations for the mark STEROP without apparent objection from the Complainant. It exhibits a list of such registrations from the WIPO Global Brands Database and highlights in particular a Morocco registration dated 2015 in the name of an entity named Pharmis.

The Respondent submits that the Complainant should be found to have brought the present proceeding in bad faith in an attempt at Reverse Domain Name Hijacking ("RDNH"). It states that the Complainant was well aware of the Respondent's rights and legitimate interests in the disputed domain name and the absence of bad faith on its part. It asserts in particular that the Complainant was aware of the Respondent's registration of the Figurative Mark and that the Complainant consented to the incorporation of the Respondent and "unequivocally agreed" to its use of the STEROP trademark and the registration of the disputed domain name.

C. The Complainant's Supplemental Filing

The Complainant states that it is untrue to imply that it was Mr. Louahrani of the Respondent who started and developed the Complainant's business in the UAE and Nigeria under the STEROP mark. The Complainant submits that it had already been doing business in those territories for over 20 years. It also denies that it is merely a manufacturer and states that it sells to customers in more than 40 countries directly.

The Complainant further submits that both the registration of the Respondent company and the Respondent's registration of the Figurative Mark amounted to a *fait accompli* on the part of the Respondent in which the Complainant had no opportunity to intervene.

The Complainant provides a detailed chronology and commentary on the parties' respective businesses and commercial dealings over the years. It alleges in particular that Mr. Louahrani was found in 2019 and 2020 to be engaged in activities competitive with the Complainant and to be misrepresenting his role with the Complainant. The Complainant states that it needed to take back management of its customers accordingly and instructed the Respondent to stop using the STEROP name for any purpose other than to sell STEROP products (the Complainant exhibits French language emails in connection with this submission, but again without translation).

The Complainant submits that it is untrue in the circumstances that the Complainant and the Respondent co-existed for many years as separate entities and that the Complainant never challenged the incorporation of the Respondent company or its use of the STEROP mark and the disputed domain name. The Complainant asserts that, on the contrary, no one on behalf of the Complainant ever agreed to the incorporation of the Respondent company or its use of the mark STEROP in the name of that company.

The Complainant states that it tolerated the Respondent's use of the "Sterop" name while Mr. Louahrani was conducting business on behalf of the Complainant as its agent. However, its view changed when it became apparent that Mr. Louahrani had incorporated the Respondent company for other purposes, including trading in competing products that were not the Complainant's.

The Complainant submits that it was unaware that the Respondent has applied for and registered the Figurative Mark, which was done "under the radar". It states that the Figurative Mark is a "copy/paste" of the Complainant's own branding, which (it states here) it has used since the 1980s, which was obviously well known to Mr. Louahrani. It states that it first learned of the Respondent's misappropriation of its logo when reading the Response in this proceeding. The Complainant submits that its earlier trademark rights in the mark STEROP render the Figurative Mark invalid in any event.

The Complainant acknowledges that its termination of the parties' business relationship does not prevent the Respondent from carrying on business, but asserts that the Respondent cannot continue to do so under the Complainant's name and branding to the detriment of the Complainant.

D. The Respondent's Supplemental Filing

The Respondent maintains its submission that the Complainant "unequivocally agreed" to the incorporation of the Respondent and to its use of the STEROP trademark and registration of the disputed domain name. It states that its application for the Figurative Mark was duly published in the UAE and that the Complainant's arguments with regard to the enforceability of that trademark are outside the scope of this proceeding.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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 or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the mark STEROP. The disputed domain name is identical to that trademark, the generic Top-Level Domain (“gTLD”) being disregarded for the purpose of such comparison. The Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Panel makes the following findings of fact based on the evidence available to it in this proceeding:

- (1) Mr. Louahrani and Laboratoires Sterop FZ-LLC represented the Complainant in certain territories under a commercial arrangement between the parties and lawfully used the STEROP trademark in that connection.
- (2) There is no evidence that the Complainant “unequivocally consented” to the incorporation of the name of the Respondent company or to its use of the STEROP mark or its registration of the disputed domain name. This finding is unaffected by the fact that a director of the Complainant may have been a shareholder in Laboratoires Sterop FZ-LLC, which is itself a shareholder in the Respondent.
- (3) There is substantial evidence, however, not least in the Respondent’s purchase orders to the Complainant, that the Complainant was aware of the existence of the Respondent company and of its use of the STEROP mark and the registration of the disputed domain name. Its knowledge of and acquiescence in these matters (on whatever terms) does not amount to “unequivocal consent” as the Respondent submits, but neither is it irrelevant.
- (4) The Respondent has registered trademark rights in the Figurative Mark in the UAE. There is no suggestion that its application for that trademark was administratively irregular (although the Complainant contests its validity). The Figurative Mark substantially incorporates the textual element STEROP.
- (5) The Complainant terminated the parties business relationship and has since objected to the Respondent’s use of the STEROP trademark, the Figurative Mark and the disputed domain name. The Respondent asserts that it maintains independent rights in these assets.

In these circumstances, the Panel finds it impossible to conclude, within the ambit of the Policy, that the Respondent has no rights or legitimate interests in respect of the disputed domain name. To reach such a conclusion would require not only a detailed forensic analysis of the terms of the parties’ business relationship, but also an assessment of the parties’ respective rights (if any) in the trademark STEROP and the validity of the Figurative Mark. These are matters which depend upon the national jurisdictions in which the relevant trademarks are registered and implicates both legal and evidentiary matters which are beyond the scope of proceedings under the UDRP. While the UDRP is apt to determine cases of “cybersquatting”, it does not exist to resolve complex commercial or trademark disputes, which remain the province of the courts.

In this case, the Panel finds on balance that the Complainant acquiesced (on whatever terms) in the Respondent’s use of the STEROP mark and the disputed domain name, that the Respondent was known by a name which included the STEROP trademark and that the Respondent is the owner of the Figurative Mark. The Panel is therefore unable to conclude that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the Complainant has clearly sought to terminate any and all

such interests in conjunction with ending the parties' business relationship, its entitlement to do so, which is contested by the Respondent on the grounds that it has obtained independent rights or interests of its own, is moot.

Therefore, the Complainant has failed to meet the requirement set out under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Since the Complaint must necessarily fail by reason of the Panel's finding in respect of rights and legitimate interests, it is not necessary to consider the issues of registration and use of the disputed domain name in bad faith.

8. Reverse Domain Name Hijacking

Under paragraph 15(e) of the Rules: "If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding."

Panels will typically make a finding of RDNH in circumstances where a complainant knew or ought to have known that its complaint had no reasonable prospects of success. Furthermore, in a case such as this, where the complainant is legally represented, the complainant is held to a higher standard than an unrepresented party.

In the view of the Panel, the Complainant ought to have appreciated in this case that this was a dispute beyond the scope of the UDRP and, in particular, that the Respondent's continuing use of the STEROP mark and disputed domain name were not matters suitable for a determination in this forum. That said, the Panel notes the Complainant's objection (whether ultimately sustainable or not) to the Respondent's continuing use of the STEROP mark and the Figurative Mark following the termination of the parties' commercial relationship, particularly where it is alleged (although the Panel has made no finding) that the marks have been used in connection with competing third-party products. In addition, while the Respondent's registration of the Figurative Mark was matter of public record (and indeed the Complainant has itself registered a trademark in the UAE) the Panel considers it plausible that the Complainant was not, as a matter of fact, aware of that registration.

In addition to these matters, the Panel has found that the commercial dispute between the parties, which includes allegations of bad faith and dishonesty on both sides, is a matter requiring a detailed factual analysis which is significantly beyond the scope of the UDRP. In those circumstances, the Panel does not consider on balance that it would be appropriate to reach a conclusion that the Complaint was brought in bad faith in an attempt at RDNH or primarily to harass the Respondent.

The Panel therefore declines to make a finding of bad faith pursuant to paragraph 15(e) of the Rules.

9. Decision

For the foregoing reasons, the Complaint is denied.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: October 21, 2022