

ADMINISTRATIVE PANEL DECISION

Sanofi v. Vasile Rusu
Case No. D2022-3983

1. The Parties

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

The Respondent is Vasile Rusu, Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <plavix.shop> is 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 October 24, 2022. On October 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 28, 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 October 28, 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 October 31, 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 November 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 22, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on November 30, 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 the registered owner of trademarks in several jurisdictions for PLAVIX, e.g. International registration No. 613041 PLAVIX (word) registered on December 27, 1993, for “Pharmaceutical products” in class 5 and designating several jurisdictions worldwide; this trademark has been duly renewed and is in force. Also, the Complainant owns European Union Trade Mark no. 002236578 PLAVIX (word) registered on April 18, 2002 for “Pharmaceutical preparations” in class 5; this trademark has been duly renewed and is in force.

It results from the evidence provided by the Complainant that the disputed domain name, registered on May 3, 2022, resolves to an online shop allegedly selling and offering the Complainant’s PLAVIX goods.

5. Parties’ Contentions

A. Complainant

It results from the Complainant’s allegations that it is a multinational pharmaceutical company headquartered in Paris, France, settled in more than 100 countries on all five continents and employing circa 100,000 people. It is one of the world’s largest multinational pharmaceutical companies by prescription sales. It engages in research and development, manufacturing, and marketing of pharmaceutical products for sale, principally in the prescription market, but it also develops over-the-counter medication. Moreover, it offers a wide range of high-growth drugs, with several pharmaceutical blockbusters, amongst them PLAVIX, which is one of the two leading drugs in the category of thrombosis medicines. PLAVIX is an anti-platelet agent indicated for a number of atherothrombotic conditions. The Complainant has developed and sold throughout the world under the trademark PLAVIX a drug indicated for the reduction of recurrence after ischemic cerebrovascular disorder. It is one of the world’s 10 leading medicines, and to date, over 100 million patients throughout the world have been treated with PLAVIX. It has been commercialized since 1998, first in the United States of America and then in Germany and in the United Kingdom, and is available in over 115 countries

Furthermore, the Complainant owns and uses several domain names including the mark PLAVIX, in order to promote its products, e.g. <plavix.com>, created on March 26, 1998.

The Complainant contends that its trademark PLAVIX is highly distinctive and well known worldwide.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant’s earlier trademark, since it comprises an exact reproduction of the Complainant’s trademarks, followed by a generic Top-Level Domain (“gTLD”) “.shop”. It is well established that the gTLD part of a domain name should be disregarded as it does not serve to distinguish domain names. The relevant comparison to be made is with the second-level portion of the disputed domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Complainant has never licensed or otherwise authorized the Respondent to use its trademarks or to register any domain name including the above-mentioned trademarks. In addition, the Respondent is not 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 given that the litigious domain website is clearly used as a bait and switch. Indeed, the disputed domain name was registered for the sole purpose of misleadingly diverting consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by or affiliated with the Complainant and its business; or that the Respondent’s activities are approved or endorsed by the Complainant. In fact, the disputed domain name leads to a commercial website selling presumably fake

PLAVIX goods at the “best price”.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In fact, given the famous and distinctive nature of the mark PLAVIX, the Respondent is likely to have had, at least, constructive, if not actual notice, as to the Complainant’s marks at the time he registered the name. This suggests that the Respondent acted with opportunistic bad faith in having registered the disputed domain name in order to make an illegitimate use of it. The disputed domain name has obviously 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. In addition, as the disputed domain name directs Internet users to a website which is not the official website of the Complainant’s goods, it is evident that the circumstances indicate that the Respondent has registered the disputed domain name primarily for the purpose of trying to gain unfair benefit of Sanofi’s goodwill and reputation by using the disputed domain name, which suggests an effort to create a likelihood of confusion with the Complainant’s trademarks and domain names as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website and the products displayed/advertised for sale on it.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of several trademark registrations for PLAVIX.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.7).

This Panel shares this view and notes that the Complainant’s registered trademark PLAVIX is fully included in the disputed domain name.

Finally, the gTLD “.shop” of the disputed domain name should typically be disregarded under the first element confusing similarity test, since it is a standard registration requirement. The practice of disregarding the gTLD in determining identity or confusing similarity is applied irrespective of the particular gTLD (including with regard to “new gTLDs”) (see [WIPO Overview 3.0](#) at section 1.11).

In light of the above, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent’s use of the trademark PLAVIX, e.g., by registering the disputed domain name comprising the said trademark entirely.

The disputed domain name resolves to a basic, apparently unfinished, website appearing to offer the Complainant’s PLAVIX-branded prescription drugs. While it is not clear from the record if the Complainant’s goods (or potentially counterfeit versions thereof) are actually available for sale, it is clear that the Respondent has sought to impersonate or falsely suggest an affiliation with the Complainant for its own benefit, potentially in connection to a fraudulent online pharmacy or similar fraudulent scheme. In these circumstances, the Respondent’s use constitutes neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the nature of the disputed domain name carries a high risk of implied affiliation, since the disputed domain name is identical to the Complainant’s trademark PLAVIX and that the trademark PLAVIX is not a trademark that one would likely legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. Generally speaking, previous UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation, see [WIPO Overview 3.0](#) at section 2.5.1. The Panel finds it most likely that the Respondent selected the disputed domain name with the intent to attract Internet users for commercial gain.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

Based on the evidence submitted by the Complainant, the Panel shares the view of other UDRP panels and finds that the Complainant’s trademark PLAVIX is widely known (*e.g. Sanofi v. Jiying Luo*, WIPO Case No. [D2022-0502](#)). In addition, it results from the Complainant’s documented allegations that the disputed domain name resolves to a website on which the Complainant’s goods are allegedly sold. Therefore, this Panel has no doubt that the Respondent positively knew that the disputed domain name consisted of the Complainant’s trademark when he registered the disputed domain name.

Panels have consistently found that the mere registration of a domain name that is identical 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](#) at section 3.1.4). The Panel shares this view and finds it most likely that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark.

Finally, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith, including (1) the nature of the domain name, *i.e.* being identical to the Complainant’s well-known mark PLAVIX; (2) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the domain name; (3) other *indicia* generally suggesting that the Respondent has targeted the Complainant, *e.g.* redirecting the disputed domain name to a web page allegedly selling PLAVIX goods; and (4) the fact the Respondent did not provide any response with a plausible explanation of its behavior or good faith use (see, *e.g.*, [WIPO Overview 3.0](#) at section 3.2.1).

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to 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 <plavix.shop> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: December 14, 2022