

ADMINISTRATIVE PANEL DECISION

Sandoz AG v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2024-2720

1. The Parties

The Complainant is Sandoz AG, Switzerland, represented by Dreyfus & associés, France.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <ussandoz.com> 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 July 3, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 2024, 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 July 10, 2024, 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 July 12, 2024.

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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on September 2, 2024. 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

Founded more than 120 years ago, the Complainant carries on business as a multinational pharmaceuticals company. Sandoz AG is one of the world's largest providers of generic drug products, which are available to consumers in 155 countries internationally. With more than 125,000 employees, representing 145 different nationalities, the company provides approximately 800,000,000 patient treatments per year. The Complainant maintains and operates a website at "www.sandoz.com" (registered January 6, 1993), and also owns the domain name <sandoz.us> for the United States of America ("United States") market (registered May 16, 2002).

In the global pharmaceuticals market, the Complainant has protected its intellectual property rights gained through developing and marketing its line of generic medicines. It has used the SANDOZ mark in commerce for many years and owns the following registrations among a large international portfolio:

- SANDOZ, United States Registration No. 3030053, dated December 13, 2005, in Class 5;
- SANDOZ, European Union Registration No. 003070422, dated February 4, 2005, in Class 1, Class 5, Class 10, Class 42, Class 44; and
- SANDOZ, Panama Registration No. 171486, dated May 30, 2008, in Class 10.

The disputed domain name was registered on February 12, 2024. The Respondent's landing page displays apparent links to third party commercial websites, and the disputed domain name has been configured for email functionality.

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 disputed domain name.

Notably, the Complainant contends that its SANDOZ trademark is well-known around the world due to the widespread adoption of its products and services. The Complainant relies on its international presence in the pharmaceutical field and the well-established recognition of its trademark as a famous mark, resulting from hundreds of millions of dollars in sales over the past many years. In the circumstances, the Complainant urges the Panel to find deliberate targeting of the famous SANDOZ mark for improper purposes.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 and is being used in bad faith.

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.

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 Complainant's evidence clearly establishes that SANDOZ is a famous mark, with a broad international reputation, which includes a trademark registration in Panama where the Respondent apparently resides.

The entirety of the SANDOZ mark is reproduced within the disputed domain name. The Panel also finds the mark is recognizable within the disputed domain name. Accordingly, the disputed 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, the geographical term "us", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 disputed domain name. In particular the Complainant has provided evidence and submissions to the effect that the Respondent has never been affiliated with or licensed by the Complainant to use the SANDOZ mark in any manner including as part of a domain name. The registration of a domain name incorporating another's famous mark does not confer or create any rights or legitimate interests in the disputed domain name if it falsely suggests affiliation with the trademark owner (see [WIPO Overview 3.0](#), section 2.5). Hosting a parked page with pay-per-click ("PPC") hyperlinks to third party websites does not evidence rights or legitimate interests in that domain name (see *Les Parfumeries Fragonard v. Thanh Van Pham*, WIPO Case No. [D2020-2920](#)). 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 disputed domain name such as those enumerated in the Policy or otherwise.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4. The Panel finds that this presumption applies in this case.

The Panel takes note of the evidence that the Respondent has activated email servers associated with the disputed domain name, a technical configuration that has likely been done intentionally. The Panel agrees that this conduct, combined with the reproduction of the Complainant's famous mark, represents an ongoing implied threat that the Respondent may use the disputed domain name for a phishing scheme. Previous UDRP panels have held that such action is consistent with bad faith registration and use of the disputed domain name (see *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)). See also *Banque Fédérale du Crédit Mutuel v. Nadi Eldo*, WIPO Case No. [D2019-0976](#).

Further, the Panel notes that the disputed domain name resolves to a webpage with commercial PPC links. Noting such links, as well as the composition of the disputed domain name and reputation of the Complainant's well-known trademark, the Panel finds that the Respondent has used the disputed domain name in bad faith to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's well-known trademark.

Finally, the Panel takes note of the fact that the Respondent has engaged in a pattern of systematic cyber-squatting over a period of years, repeatedly targeting well known trademarks of brand owners across many jurisdictions. A review of the Center's list of decided cases shows that since 2012 more than 450 panel decisions have been issued against the Respondent for violations of the Policy, including 25 new decisions in 2024. See for example *Goop Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2024-1989](#), and *Fisher Asset Management, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2024-2356](#). This sort of abusive conduct on such a large scale weighs heavily in favour of a finding of bad faith in this matter.

All these factors lead the Panel to find 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 disputed domain name <ussandoz.com> be transferred to the Complainant.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: September 16, 2024