

ADMINISTRATIVE PANEL DECISION

Sarepta Therapeutics, Inc. v. My Name, User User
Case No. D2024-2938

1. The Parties

Complainant is Sarepta Therapeutics, Inc., United States of America (“United States” or “U.S.”), represented by Arnold & Porter Kaye Scholer LLP, United States.

Respondents are My Name and User User, United States.

2. The Domain Names and Registrar

The Disputed Domain Names <sarepstascareers.com> and <sareptascareers.com> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On July 18, 2024, 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 (Anonymous Registrant) and contact information in the Complaint.

The Center sent an email communication to Complainant on July 24, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainant to either file separate complaint(s) for the Disputed Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on July 29, 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 Respondent of the Complaint, and the proceedings commenced on August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on September 11, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on September 17, 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

Complainant is a corporation existing under the laws of the State of Delaware, United States, with its principal place of business in Cambridge, Massachusetts.

Complainant is a global biotechnology company that develops and sells precision genetic medicines and that develops gene therapy products for the treatment of rare diseases. Complainant owns numerous trademark registrations for SAREPTA and SAREPTA THERAPEUTICS (the "SAREPTA Marks"), including without limitation the following:

U.S. Registration No. 4,653,265 issued December 9, 2014, for SAREPTA THERAPEUTICS;

U.S. Registration No. 4,724,239 issued April 21, 2015, for SAREPTA;

U.S. Registration No. 4,653,264 issued December 9, 2014, for SAREPTA; and

U.S. Registration No. 6,342,349 issued May 4, 2021, for SAREPTA.

Complainant has been known by and has used the SAREPTA Marks since at least 2012 and has owned a United States trademark registration since as early as December 9, 2014.

Complainant uses the SAREPTA Marks in connection with pharmaceutical and biopharmaceutical products, particularly the development and sale of precision genetic medicines and the development of gene therapy products.

Complainant also owns the domain names <sarepta.com> and <sareptacareers.com>, which it uses to host a website to communicate with the public. Complainant also uses the website to promote its products and for its employees' email addresses, including for communications with vendors, customers, potential employees and others. Complainant owns numerous other domain names containing the SAREPTA Marks.

The Disputed Domain Names were registered on July 2, 2024 and July 4, 2024 respectively and do not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant contends that by virtue of the extensive sales and advertising of its products and services and by virtue of Complainant's business activities under the SAREPTA Marks in the United States and around the world, the SAREPTA Marks have become well-known throughout the world.

Complainant further contends that the Disputed Domain Names each use the term "sarepta" which is identical to the principal element in the SAREPTA Marks. One Disputed Domain Name adds a typo in the

form of an extra “s” in the middle of the “sarepta” name. Each Disputed Domain Name adds the extra word “careers”. Complainant further contends that neither the typo nor the word “careers” prevent the confusing similarity of the Disputed Domain Names with the SAREPTA Marks.

Complainant alleges that Respondents registered the Disputed Domain Names in order to trick the public into giving individuals the false impression that they are authorized by Complainant. Complainant further alleges that it has given no permission to Respondents to use the SAREPTA Marks in a domain name or in any other fashion. Complainant further alleges that it is not affiliated in any way with Respondents. Complainant further alleges that Respondents have no rights or legitimate interests in the Disputed Domain Names.

Complainant further alleges that Respondents have not connected the Disputed Domain Names to any active website. Furthermore, the intentional use of confusingly similar Disputed Domain Names and passive holding does not constitute the bona fide offering of any goods or services.

Complainant further alleges, upon information and belief, that Respondents are not commonly known by the names “Sarepta,” “SareptaCareers”, or any variation thereof.

Complainant alleges that Respondents registered the Disputed Domain Names in an effort to trade on the SAREPTA Marks and to mislead the public. Complainant further alleges that Respondents are using the Disputed Domain Names in connection with a fraudulent scheme involving the SAREPTA Marks and email addresses by using the Disputed Domain Names to impersonate Complainant’s departments and employees in communications with members of the public such as prospective employees and job applicants, all in an effort to ultimately gain their personal information or to otherwise defraud them. Currently each of the Disputed Domain Names fails to resolve to any visible website. Complainant further alleges that a fraudulent phishing scheme cannot be considered as a legitimate or fair use of the Disputed Domain Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.13.1.

Complainant submits that Respondents had actual and constructive knowledge of Complainant’s rights in the SAREPTA Marks. The SAREPTA Marks were registered well before the Disputed Domain Names, which shows constructive knowledge. The use of Complainant’s name in the phishing scheme shows actual knowledge.

Complainant further submits that Respondents passively holding or parking the Disputed Domain Names, which is another indication of bad faith.

Complainant further submits that typosquatting is an additional indication of bad faith.

Complainant further submits that Respondents’ fraudulent phishing scheme is bad faith.

The Complainant concludes that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Names.

B. Respondent

Respondents did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. [WIPO Overview 3.0](#), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Names registered by Respondent are identical or confusingly similar to the SAREPTA Marks in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and,
- iii) that the Disputed Domain Names have been registered and are being used in bad faith.

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. Complainant alleges that the Disputed Domain Names registrants are the same entity or mere alter egos of each other, or under common control. Complainant requests the consolidation of the Complaint against the multiple Disputed Domain Names registrants pursuant to paragraph 10(e) of the Rules.

In addressing the Complainant's request, the Panel will consider whether (i) the Disputed Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. [WIPO Overview 3.0](#), section 4.11.2.

Complainant contends that Respondents used two separate email addresses, which were respectively comprised of the Disputed Domain Names. Complainant further submits that in connection with using the two email addresses, Respondents fabricated and used the same identity of Sarepta employee to send interview requests and fraudulent forms and to offer non-existent positions to applicants.

Consolidation is hereby granted because the Disputed Domain Names and Respondents are all related to the same phishing scheme and appear to be under common management and control. [WIPO Overview 3.0](#), section 4.11.2. Furthermore, consolidation appears to be fair and equitable. [WIPO Overview 3.0](#), section 4.11.2.

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 SAREPTA Marks and the Disputed Domain Names. [WIPO Overview 3.0](#), section 1.7.

[WIPO Overview 3.0](#), section 1.2.1 states that registration is prima facie evidence of Complainant having enforceable rights in the SAREPTA Marks.

Complainant has shown rights in respect of the SAREPTA Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

[WIPO Overview 3.0](#), section 1.7 says that inclusion of the entire trademark in a domain name will be considered confusingly similar.

The Panel finds the SAREPTA Marks are recognizable within the Disputed Domain Names. Accordingly, the Disputed Domain Names are confusingly similar to the SAREPTA Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel further finds that Respondents' misspelling or typosquatting with the Disputed Domain Names does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9.

The Panel further finds that the use of the gTLD “.com” does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.11.

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 Respondents may demonstrate rights or legitimate interests in a Disputed Domain Names.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed Domain Names may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of Respondent. As such, where Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Names (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Names:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Names or a name corresponding to the Disputed Domain Names in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Names, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the SARETPA Marks.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Names. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here claimed as phishing, impersonation/passing off, and fraud can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the Disputed Domain Names in bad faith.

In the present case, the Panel notes that Complainant does not rely on paragraph 4(b) of the Policy to support its allegations of Respondents’ bad faith.

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

Complainant submits that the typo of the well-known SAREPTA Marks in one of the Disputed Domain Names is an indication of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Complainant further submits that Respondents had actual and constructive knowledge of Complainant's rights in the SAREPTA Marks. [WIPO Overview 3.0](#), section 3.2.2.

Complainant further submits that Respondents have engaged in passive holding or parking of the Disputed Domain Names. [WIPO Overview 3.0](#), section 3.4.

Complainant further submits that Respondents have engaged in a fraudulent phishing scheme using impersonation of Complainant's employees and their email addresses. [WIPO Overview 3.0](#), section 2.13.

Panels have found that the non-use of the Disputed Domain Names (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the SAREPTA Marks and the composition of the Disputed Domain Names, and finds that in the circumstances of this case the passive holding of the Disputed Domain Names does not prevent a finding of bad faith under the Policy.

Panels have held that the use of the Disputed Domain Names for illegal activity, here claimed as phishing, impersonation/passing off, and fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Names constitutes bad faith under the Policy.

The evidence establishes: (i) use of a typo in the well-known SAREPTA Marks, (ii) actual and constructive knowledge of Complainant's rights, (iii) passive holding or parking by Respondent in the use the Disputed Domain Names; and (iv) use of a fraudulent phishing scheme.

The Panel finds that 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 Names <sarepstascareers.com> and <sareptascareers.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: October 1, 2024