

## **ADMINISTRATIVE PANEL DECISION**

Sandoz AG v. shi lei  
Case No. D2024-2965

### **1. The Parties**

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

The Respondent is shi lei, China.

### **2. The Domain Names and Registrar**

The disputed domain names <sandozbenefit.com>, <sandozbenefits.com>, and <sandozbenefits.com> (the “Domain Names”) are registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2024. On July 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 24, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 25, 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 28, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on September 3, 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**

The Complainant is a Swiss corporation, founded in 1996 but with a corporate history that can be traced back 250 years, that specializes in the manufacture and distribution of off-patent pharmaceuticals. The Complainant provides over 800 million treatments a year and employs approximately 126,000 employees, with its products available in over 155 countries.

The Complainant has held trademark registrations for SANDOZ (the "SANDOZ Mark") since at least 2003. Its trademark registrations for the SANDOZ Mark are in a range of jurisdictions including registrations in the United States of America ("United States") (registration number 3,030,053, registered December 13, 2005). The Complainant is the owner of domain names consisting of or including its SANDOZ Mark, including <sandoz.com>, from which it operates its main corporate website.

The Domain Names were registered on June 18, 2024. Each of the Domain Names resolves to a website offering pay-per-click advertisements including advertisements that make specific reference to the pharmaceutical manufacturing (and general pharmaceutical goods) offered by the Complainant.

#### **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 Domain Names.

Notably, the Complainant contends that:

- a) It is the owner of the SANDOZ Mark, having registered the SANDOZ Mark in the United States and numerous other jurisdictions. Each of the Domain Names is confusingly similar to the SANDOZ Mark as each one reproduces the SANDOZ Mark in its entirety and adds a generic term, being the word "benefit" or a misspelling of that word.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Names. The Complainant has not granted any license or authorization for the Respondent to use the SANDOZ Mark. The Respondent is not commonly known by the SANDOZ Mark, nor does it use the Domain Names for a bona fide purpose or legitimate non-commercial purpose. Instead, the Domain Names resolve to pay-per-click sites. Such use of the Domain Names cannot and does not constitute bona fide commercial use, sufficient to legitimize any rights or interests the Respondent might have in Domain Names and therefore the Respondent has no rights or legitimate interests in the Domain Names under paragraph 4(a)(ii) of the Policy.
- c) The Domain Names were registered and are being used in bad faith. There is no plausible circumstance under which the Respondent could legitimately use the Domain Names, which contains the coined SANDOZ Mark (and a generic term, sometimes misspelled), other than in bad faith. The Respondent gains revenue from the Domain Names by having the Domain Names resolve to a pay-per-click websites and has also configured mail exchange ("MX") servers indicating that the Domain Names could be used for sending scam e-mails. In such circumstances, the Respondent's conduct amounts to use of the Domain Names in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 each of the Domain Names. 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 entirety of the mark is reproduced within each of the Domain Names. Accordingly, each of the Domain Names 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, "benefit" or variants thereof, may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the Domain Names 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 Domain Names. 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 Domain Names such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Names.

The use of the Domain Names for a parking page with pay-per-click links in the circumstances of this case is not a bona fide offering of goods or services, nor legitimate noncommercial or fair use. The Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether “parked” pages comprising pay-per-click links support the respondent’s rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) notes that:

“Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC [pay-per-click] links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In this case, the Panel notes that the Domain Names contain a coined trademark and hence do not solely consist of a dictionary word or phrase, and moreover the pay-per-click links compete with or capitalize on the reputation and goodwill of the Complainant’s trademark.

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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Each of the Domain Names, which wholly incorporate the coined SANDOZ Mark, resolve to a page offering pay-per-click links (including links referring to the Complainant’s pharmaceutical manufacturing services) for which the Respondent most likely would receive some commercial gain. In these circumstances where the Respondent has offered no plausible or supported explanation for the registration of the Domain Names, the Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Names to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SANDOZ Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites.

The Panel finds 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 Domain Names <sandozbenefit.com>, <sandozbenefits.com>, and <sandozbenifits.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: September 10, 2024