

## ADMINISTRATIVE PANEL DECISION

Sandoz AG v. Name Redacted

Case No. D2024-3497

### 1. The Parties

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

The Respondent is Name Redacted.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <sandosz.com> is registered with Wild West Domains, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2024. On August 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. The same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 9, 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 September 10, 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”).

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 20, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on October 24, 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 world leader in generic pharmaceuticals. It can trace its origins to a small chemical company that came into being in Basel, Switzerland, in 1886. Kern & Sandoz, as the company was initially called, focused on the production of dyes. However, within a decade it produced its first pharmaceutical substance. By 1917, the company had established its first pharmaceutical department and, in 1929, Calcium Sandoz was introduced, laying the foundation for modern calcium therapy. Calcium Sandoz went on to establish itself as one of the company's best-known products and is still well represented in today's Sandoz portfolio.

In 1939, Kern & Sandoz became Sandoz Ltd., a name it operated under for nearly sixty years.

In 1963, it acquired Biochemie GmbH, representing the beginning of large-scale production of antibiotics and substances developed on the basis of biotechnology. Sandoz currently is one of the world's largest producer of antibiotics.

Over the course of the 20th century, the Sandoz brand grew consistently and came to enjoy international recognition. The Sandoz brand became dormant for a few years while retaining some distinctiveness through use and, in 2003, the name Sandoz was actively reestablished.

In 2015, the Complainant's products reached more than 500 million patients.

The Complainant is the owner of the trade mark SANDOZ registered, inter alia, as trade mark number 3030053 since December 13, 2005, in the United States for pharmaceuticals. It has owned <sandoz.com> since January 6, 1993. The mark is well known in its field.

The disputed domain name was registered on June 28, 2024, and resolves to an inactive website.

#### **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:

The disputed domain name is confusingly similar to the Complainant' prior registered SANDOZ mark merely adding an extra letter 's' and the generic Top-Level Domain ("gTLD") .com which does not prevent said confusing similarity.

Differing from the Complainant's registered mark and domain name by a single letter 's' the disputed domain name is intended to be a typosquatting registration indicating a lack of rights or legitimate interests in a

domain name. The disputed domain name carries a high risk of affiliation with the Complainant's well known SANDOZ mark.

The Respondent does not have any rights or legitimate interests in the disputed domain name, is not commonly known by it and is not authorised by the Complainant. The reference to the name of an infamous financier accused of sex trafficking now deceased as the Respondent in the Whois details for the disputed domain name is likely false and does not match the name given in the Respondent's email address.

The disputed domain name does not point to an active web site so there is no bona fide offering of goods or services or a legitimate non commercial or fair use.

The disputed domain name has been registered and used in opportunistic bad faith. Typosquatting is bad faith per se and indicates knowledge of the Complainant's prior well known SANDOZ mark. The disputed domain name is passive holding of a domain name containing the Complainant's well-known mark. The Complainant is concerned about phishing.

## **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 trade mark 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name, despite being misspelled with an extra letter 's' added. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.9.

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. 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 Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the disputed domain name.

The disputed domain name differs from the Complainant's well-known SANDOZ trade mark and domain name by a single letter 's' and the disputed domain name appears intended to be typosquatting registration, an indication of the Respondent's knowledge of the Complainant's SANDOZ mark and lack of rights or legitimate interest in the disputed domain name. The disputed domain name carries a risk of affiliation with the Complainant's mark. [WIPO Overview 3.0](#), section 2.5.1.

The disputed domain name is not being used and so there is no bona fide offering of goods or services or legitimate non commercial or fair use.

The name given for the registrant of the disputed domain name is the name of an infamous deceased financier accused of sex trafficking and does not match the name given in the Respondent's email address. It is more likely than not that the Respondent has supplied false contact details to the Whois register which demonstrates a lack of rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.3.

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.

In the present case, the Panel notes that the Respondent has not used the disputed domain name.

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 found that the non-use of a domain name 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 and well-known nature of the Complainant's trade mark, and the composition of the disputed domain name intended to be a typosquatting registration, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Further the high likelihood that the Respondent has submitted false contact details to the Whois database indicates bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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 disputed domain name <sandosz.com> be transferred to the Complainant.

*/Dawn Osborne/*

**Dawn Osborne**

Sole Panelist

Date: November 5, 2024