

ADMINISTRATIVE PANEL DECISION

Sanofi v. max efremov

Case No. D2022-3994

1. The Parties

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

Respondent is max efremov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <plavix4us.top> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2022. On October 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On 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 (Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on October 28, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. 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 Respondent of the Complaint, and the proceedings commenced on November 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 1, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on December 9, 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

Complainant is a French multinational pharmaceutical company headquartered in Paris, France. With consolidated net sales of 37,7 billion euros in 2021, 36,04 billion euros in 2020, 34,46 billion euros in 2018, 35,05 billion euros in 2017, 33,82 billion euros in 2016, 34,06 billion euros in 2015 and 31,38 billion euros in 2014, Complainant ranks as the 4th world's largest multinational pharmaceutical company by prescription sales.

Complainant offers a wide range of patented prescription drugs to treat patients with serious diseases and has leading positions in 7 major therapeutic areas, including thrombosis.

Complainant has developed and sold throughout the world under the trademark PLAVIX a drug indicated for the reduction of recurrence after ischemic cerebrovascular disorder. Per Complaint, PLAVIX is one of the world's 10 leading medicines and one of the two leading drugs in the category of thrombosis medicines, while to date, over 100 million patients throughout the world have been treated with PLAVIX. Commercialized since 1998, PLAVIX is available in over 115 countries.

Complainant owns trademark registrations for PLAVIX, including:

- International trademark registration PLAVIX (word), number 694151, registered on June 16, 1986, for goods in international class 5;
- European Union trademark registration PLAVIX (word), number 002236578, filed on May 29, 2001, and registered on April 18, 2002, for goods in international class 5;
- French trademark registration PLAVIX (word), number 93484877, registered on July 28, 1993, for goods in international class 5; and
- International trademark registration PLAVIX number 613041, registered on December 27, 1993, for goods in international class 5.

Complainant also owns domain name registrations for PLAVIX including:

- <plavix.com> registered on March 26, 1998;
- <plavix.fr> registered on May 30, 2002; and
- <plavix.us> registered on May 16, 2002.

The Domain Name was registered on June 24, 2022, and led at the time of filing of the Complaint to a website (the "Website") selling presumably, per Complaint, fake PLAVIX goods by clicking on the "Buy Now" button. It currently leads to a website in Russian language showing pictures of animals killed by hunters.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Domain Name incorporates Complainant's PLAVIX trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the number "4" and the word "us" does not prevent a finding of confusing similarity, as the PLAVIX trademark remains clearly recognizable within the Domain Name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain ("gTLD") ".top" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant's PLAVIX trademark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

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

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website selling selling presumably, per Complaint, fake PLAVIX goods and using Complainant's trademark. Moreover, the Domain Name carries a risk of implied affiliation to Complainant due to its incorporation of the PLAVIX trademark in its entirety, along with the descriptive addition of the element "4us" that conveys to Internet users the impression that the Website will be a source of Complainant's goods, contrary to the fact ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the PLAVIX mark had been widely used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to host the Website which sold, presumably per Complaint, fake items as PLAVIX, while using Complainant's trademark on the Website. Currently it leads to a website in Russian with photos of animals killed by hunters. Under these circumstances and on this record, the Panel finds no good faith basis for Respondent's conduct *vis-à-vis* the Domain Name.

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

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, <plavix4us.top> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: December 23, 2022