

ADMINISTRATIVE PANEL DECISION

Sanofi v. Domains By Proxy, LLC / Anass Habrah, Habrah LLC
Case No. D2022-0504

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Anass Habrah, Habrah LLC, United States, self-represented.

2. The Domain Name and Registrar

The disputed domain name <thesanofi.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 February 14, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2022, 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 and contact information in the Complaint. The Respondent sent several informal emails regarding the Registrar-Lock to the Complainant and the Registrar on February 15 and 16, 2022. The Center sent an email communication to the Complainant on February 16, 2022 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 amendment to the Complaint on February 16, 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 the Respondent of the Complaint, and the proceedings commenced on February 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2022. The Response was filed with the Center on February 17, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on March 11, 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

The Complainant is a French multinational pharmaceutical company headquartered in Paris, France, ranking 4th world's largest multinational pharmaceutical company by prescription sales. The Complainant is operating in more than 100 countries on 5 continents.

The Complainant owns trademark registrations in various jurisdictions, including the French trademark SANOFI (Reg. No. 3831592, registered on May 16, 2011), the United States trademark SANOFI (Reg. No. 4178199, registered on July 24, 2012), and the International trademark SANOFI (Reg. No. 1091805, registered on August 18, 2011).

The Complainant further holds the domain name <sanofi.com> under which the official website of the Complainant is available. The Complainant advertises and sells its services through its <sanofi.com> domain name. The Complainant holds various other domain names incorporating the SANOFI trademark.

The disputed domain name was registered on February 3, 2022 and automatically redirected Internet users to another website, which allegedly advertised cell phones for sale and contained many links. At the time of the decision, the automatic redirection has been deactivated and the website at the disputed domain name does not offer any content.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4(a).

B. Respondent

In his Response, the Respondent expressed that the disputed domain name had been booked for a project to sell accessories. He alleged that "we have chosen this name based on 2 words Thesano (my grandmother family name) & Fi from Fidelity It is not to use for medical purposes, my industry is not medical, it is for silver accessories".

In line with the Panel's authority pursuant to the Rules, paragraph 10, the Panel has considered the Respondent's unsupported assertions, and notes that the Respondent's submission does not alter the outcome of the case.

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the SANOFI trademark.

The SANOFI trademark is wholly reproduced in the disputed domain name.

A domain name is “identical or confusingly similar” to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.8, “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements”. Hence, the Panel holds that the addition of the term “the” to the Complainant’s SANOFI trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name.

The Respondent used the disputed domain name to redirect Internet users to a website (“[www.freemobilezone.com](#)”) advertising cell phones and containing many links. The Complainant has credibly alleged that the Respondent used the disputed domain name for generating revenue (presumably through pay-per-click links) while taking advantage of the Complainant’s trademark fame. This cannot be considered as a *bona fide* offering of goods or services or a noncommercial use.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant’s trademark and the additional term “the” (a definite article), cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, including the composition of the disputed domain name and reputation of the Complainant’s trademark, the Respondent’s assertion that the disputed domain name was chosen as a composition of two other words appears implausible, and it can be inferred that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name. Even if he was not aware of the Complainant’s trademark and business, the Respondent could have taken some efforts to screen the registration of the disputed domain name against readily available online databases (or conduct a mere Internet search) to avoid the registration of a trademark-abusive domain name.

The Panel finds that the reproduction of the Complainant’s trademark along with the term “the” creates a likelihood of confusion between the Complainant’s trademark and the disputed domain name.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was using the disputed domain name in an attempt to attract Internet users to his website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of his website for his own commercial benefit. The Respondent therefore used the disputed domain name in bad faith.

Accordingly, the Complainant has also fulfilled paragraph 4(a)(iii) 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 <thesanofi.com> be cancelled.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: March 15, 2022