

ADMINISTRATIVE PANEL DECISION

Sanofi v. Mich  l   Maraponte

Case No. D2023-2700

1. The Parties

The Complainant is Sanofi, France, represented by Selarl Marchais & Associ  s, France.

The Respondent is Mich  l   Maraponte, Belgium.

2. The Domain Name and Registrar

The disputed domain name <be-sanofi.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 23, 2023. On June 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 2023, 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 (Redacted for Privacy, Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 26, 2023 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 July 3, 2023.

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 July 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 31, 2023.

The Center appointed Sally M. Abel as the sole panelist in this matter on August 15, 2023. 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

Headquartered in Paris, France, and doing business in over 100 countries, Complainant is the world's fourth largest multinational pharmaceutical company (calculated based on prescription sales). Complainant, formed as Sanofi-Aventis in 2004, changed its name to Sanofi in 2011. Complainant owns numerous trademark registrations of SANOFI, alone or with a design element, in connection with pharmaceutical products, in many jurisdictions around the world, including, for example:

- SANOFI: registered in France August 11, 1988 (no. 1482708)
- SANOFI: registered in France December 11, 1996 (no. 96655339)
- SANOFI: registered in the European Union January 7, 2012 (no. 010167351)
- SANOFI: International registration August 11, 2011 (no. 1092811), extended to numerous countries including Australia, Cuba, Georgia, Japan, Russia South Korea and the Ukraine.
- SANOFI: registered in the United States July 24, 2012 (no. 85396658) and
- SANOFI: registered in the United Kingdom January 15, 1993 (no. UK00001483425)

Complainant also owns several domain names in which the Second Level Domain is SANOFI, including <sanofi.be>, which Complainant registered in 2001 (Annex 9.14) and uses in connection with a localized website focused on the Belgian market. ("www.sanofi.be").

Respondent registered the Domain Name on May 27, 2023. The Domain Name does not currently point to an active website.

5. Parties' Contentions

A. Complainant

Complainant contends that it is one of the largest pharmaceutical companies in the world, detailing considerable proof of same, and that even as early as 2011 WIPO recognized SANOFI among the most cybersquatted trademarks (WIPO prepares for Launch of New gTLDs while Cybersquatting Cases Continued to Rise, March 6, 2012 referenced PR/2012/704(http://www.wipo.int/pressroom/en/articles/2012/article_0002.html)).

Complainant asserts that the Domain Name is confusingly similar to Complainant's highly distinctive SANOFI trademark, registered throughout the world. Complainant has used SANOFI in its trade name for over 40 years and has invested "substantial financial resources" to advertise and promote its SANOFI-trademarks in countries all over the world, including Belgium. The Domain Name is confusingly similar regardless of the fact that it contains the non-distinctive geographical abbreviation for Belgium - "be" - and the generic top level designation ".com").

Complainant further asserts that Respondent has no right or legitimate interest in the Domain Name. Complainant asserts that Respondent's original Whois listing identifying Respondent by "REDACTED FOR PRIVACY" proves lack of legitimate interest because the phrase bears no resemblance to the word SANOFI and because REDACTED FOR PRIVACY is not the true Registrant. Complainant also confirms that it did not license or authorize Respondent to register or use the Domain Name and that Respondent, who is not currently making any obvious use of the Domain Name in connection with a website, is not making a legitimate non-commercial or fair use of the Domain Name. Finally, Complainant submits that Respondent has used the Domain Name in connection with a phishing scheme, submitting a copy of a May 30, 2023 email, purporting to be on behalf of SANOFI Belgium, "one of the leading pharmaceutical companies in the world", seeking a bid from a cardboard supplier. Annex 13.

Complainant contends that the Domain Name was registered and used in bad faith. Complainant argues that bad faith use is established in that Respondent had to have had constructive, if not actual notice, of Complainant's rights in SANOFI given the mark's worldwide fame. This shows that Respondent engaged in

“opportunistic bad faith” to make illegitimate use of the Domain Name. The Domain Name was registered to create confusion; Respondent is not making legitimate non-commercial use or using the Domain Name in connection with a *bona fide* offering of goods. Because the mark is internationally famous, the fact that the Domain Name is not used in connection with a website does not preclude a finding of bad faith, indeed the nonuse may cause irreparable prejudice to Complainant’s goodwill because Internet users may be led to believe that Complainant is not on the Internet or is out of business. Finally, use of the Domain Name as part of the email address of the sender - “[redacted]t@be-sanofi.com” - in the phishing email ostensibly from “SANOFI Belgium” (Annex 13), evidences bad faith, as earlier panels have held in phishing related cases.

B. Respondent

The Respondent did not reply to the Complaint.

6. Discussion and Findings

Respondent defaulted. Rule 14(b) provides that in the event of default, “...The Panel shall draw such inferences therefrom as it considers appropriate...” Accordingly, the Panel considers all of the claims and allegations of the Complaint to be true and concludes that Complainant has met its burden of proof under paragraph 4(a) (i)-(iii) of the Policy, having established:

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

A. Identical or Confusingly Similar

It is beyond question that Complainant has prior rights in the SANOFI mark and that the Domain Name is confusingly similar to the SANOFI mark. The Domain Name contains only Complainant’s well-known, distinctive mark, sandwiched between the non-distinctive geographic designator, “be” for Belgium, and the equally non-distinctive, generic “.com”.

Complainant has proven that the Domain Name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is manifest that Respondent has no rights or legitimate interest in the Domain Name. The fact that Respondent used the Domain Name, as part of an email address while masquerading as “SANOFI Belgium ... one of the leading pharmaceutical companies in the world” (Annex 13) in connection with what appears to be a phishing scheme of some sort, obviously targeting Complainant, its suppliers and perhaps customers, fully satisfies this prong of the test.

Complainant has proven that the Respondent has no rights or legitimate interest in the Domain Name according to paragraph 4(a)(ii) of the Policy.

The Panel notes the Complainant’s argument that Respondent has no right or legitimate interest in the Domain Name because the original Whois record identified the Respondent as “REDACTED FOR PRIVACY”, which phrase is not similar to SANOFI. The Panel observes that many domain name registrants choose to privacy protect their registration details; yes, some do for nefarious reasons, others do not. The

fact that the Domain Name was registered in a manner to protect Registrant's privacy, alone, does not demonstrate lack of rights or legitimate interests. Nor is there any requirement that the domain registrant's name match or otherwise be similar to the trademark at issue.

C. Registered and Used in Bad Faith

It is uncontested that Respondent used the Domain Name in connection with a phishing scheme in which Respondent identified itself as SANOFI Belgium and claimed to be "an innovative biopharmaceutical company ...one of the leading pharmaceutical companies in the world". Annex 13. This alone constitutes bad faith registration and use. There is no need to address constructive or actual notice, opportunistic bad faith or whether Respondent made legitimate use. Each of those considerations, by definition, is obvious in the context of this particular phishing matter, requiring only brief mention at best.

Complainant has proven that the Respondent registered and used the Domain Name in bad faith according to 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 Domain Name, <be-sanofi.com> be transferred to the Complainant.

/Sally M. Abel/

Sally M. Abel

Sole Panelist

Date: August 29, 2023