

## **ADMINISTRATIVE PANEL DECISION**

Sanofi v. Mu Guo

Case No. D2023-4135

### **1. The Parties**

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

The Respondent is Mu Guo, China.

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

The disputed domain name <sanofi-asiapacific.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023. On October 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 12, 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 October 13, 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 October 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 9, 2023.

The Center appointed Christian Pirker as the sole panelist in this matter on November 24, 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**

Founded in 2004 by the merger of Aventis and Sanofi-Synthélabo and changed its name to Sanofi in 2011. The Complainant is one of the world's largest multinational pharmaceutical companies by prescription sales, settled in more than 100 countries, on all 5 continents, employing round 100,000 people.

The Complainant has provided evidence of trademark registrations for SANOFI trademark, such as:

- European Union trademark SANOFI number 004182325, filed on December 8, 2004 and registered on February 9, 2006 in classes 01; 09; 10; 16; 38; 41; 42; 44
- International trademark SANOFI number 1092811, registered on August 11, 2011 in classes 01; 09; 10; 16; 38; 41; 42; 44 notably concerning products in pharmaceutical and medical spheres, and designating among others Australia, Georgia, Japan, Korea (Republic of), Cuba, Russian Federation, Iceland, Ukraine etc.
- United States of America trademark SANOFI number 85396658, filed on August 12, 2011, and registered on July 24, 2012, in among others class 05 notably concerning pharmaceutical products

The Complainant has also registered numerous domain name since 1995 containing its SANOFI trademark for its official website including "www.sanofi.com", "www.sanofi.eu", "www.sanofi.fr", "www.sanofi.ch", etc. to represent the company on the Internet.

The Respondent is reportedly located in China.

The disputed domain name <sanofi-asiapacific.com> was registered on September 14, 2023, and resolved to a domain name parking website which contains advertising links.

#### **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 wholly incorporates the Complainant's distinctive trademarks in its entirety, is confusingly similar to that mark despite the addition of a descriptive geographical terms, which in the contrary, merely suggests to Internet users that the disputed domain name is related to the Complainant's activities in the Asia-Pacific region. Moreover, the Sanofi trademark is considered as "well-known" in numerous jurisdictions. The Complainant also alleges that the Respondent has not received any authorization by the Complainant to use of the disputed domain name and globally has no rights or legitimate interest in respect of the disputed domain name. Further, the Complainant asserts that the Respondent, given the famous and distinctive nature of the well-known and worldwide trademark SANOFI, the Respondent is likely to have had, at least, constructive, if not actual notice, as to the existence of the Complainant's marks at the time it registered the disputed domain name. Further, adding a region to the well-known trademark, the Respondent must have been aware of the risk of deception and confusion that would inevitably arise from the registration of the disputed domain name since it could lead Internet users searching for official information or SANOFI pharmaceutical products to the litigious website. Finally, as the website revert to a domain name parking website, which contains advertisements and links websites provide without doubt income to the Respondent depending on the number of hits that are generated on the

disputed domain name, on a pay per click basis. Consequently, the disputed domain name has been both registered and used intentionally 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 the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name 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, "asiapacific" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Finally, it is standard practice to disregard the Top-Level Domain ("TLD") suffix under the confusing similarity test, except where the applicable TLD suffix may itself form part of the relevant trademark, which is not the case in the present matter. See [WIPO Overview 3.0](#), section 1.11.

Based on the available record, 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.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant's trademark with the term "asiapacific", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

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.

Based on the evidence submitted by the Complainant, the Panel accepts that the trademark SANOFI is *prima facie* well-known, such finding remains in view of the absence of a Response (see *Birkenstock Orthopädie GmbH & Co. KG v. Chen Yanbing*, WIPO Case No. [D2010-0746](#)).

It is a well-established principle that registration of a domain name that is confusingly similar to a well-known trademark by any entity that does not have a relationship with that trademark or its owner can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#) section 3.1.4).

It seems clear to the Panel that the Respondent registered the disputed domain name with full knowledge of the Complainant's well-known trademark, particularly considering the reputation of the Complainant's mark and since the trademark is included in its entirety supplemented by a geographical area.

Finally, the disputed domain name resolved, at filing of the Complaint, to a parking website which contained advertisements and links websites (among others for pharmaceutical laboratory) that likely provided income to the Respondent depending on the number of hits that were generated on the disputed domain name, on a pay per click basis. As such, the Panel determines that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or its location, which is evidence of bad faith use and registration.

Accordingly, the Panel finds that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name. In view of the above-mentioned facts, the Panel concludes that the Respondent's primary motive in relation to the registration and use of the disputed domain name was to capitalize on, or otherwise take advantage of, the Complainant's trademark rights, by creating a likelihood of confusion with the Complainant's mark with the intent to unlawfully profit therefrom (see *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#)). The failure of the respondent to submit a response and the use of a privacy registration service in combination with apparently incomplete contact information to such service or a continued concealment of the "true" or "underlying" registrant confirms the finding of an evidence of bad faith [WIPO Overview 3.0](#), section 3.9.

Based on the available record, 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 <sanofi-asiapacific.com> be cancelled.

*/Christian Pirker/*

**Christian Pirker**

Sole Panelist

Date: December 18, 2023