

ADMINISTRATIVE PANEL DECISION

Sanofi v. 祝佳乐 (zhu jia le)
Case No. D2023-4511

1. The Parties

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

The Respondent is 祝佳乐 (zhu jia le), China.

2. The Domain Name and Registrar

The disputed domain name <sanofi-global.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 in English on November 14, 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 November 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 8, 2023.

On December 13, 2023, the Center transmitted an email in English and Chinese informing the Parties that the Registration Agreement for the disputed domain name is in Chinese and giving the Parties five days to comment on the language of the proceeding. On December 14, 2023, the Complainant submitted its request for English to be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center appointed Jonathan Agmon as the sole panelist in this matter on January 2, 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 French multinational pharmaceutical company headquartered in Paris, and is ranked as one of the world's largest multinational pharmaceutical companies by prescription sales. Founded in 2004 by the merger of Aventis and Sanofi-Synthélabo, the Complainant was initially named Sanofi-Aventis and changed its name to Sanofi in May 2011. The Complainant currently has a presence in more than 100 countries on all 5 continents, employing 100,000 people. The Complainant engages in research and development, manufacturing and marketing of pharmaceutical products for sale, principally in the prescription market, but the firm also develops over-the-counter medication.

The Complainant is the owner of numerous SANOFI trademarks worldwide, including the following:-

- United States of America trademark registration no. 85396658 for SANOFI, registered on July 24, 2012;
- European Union trademark registration no. 000596023 for SANOFI, registered on February 1, 1999;
- International trademark registration no. 674936 for SANOFI, registered on June 11, 1997; and
- France trademark registration no. 1482708 for SANOFI, registered on August 11, 1988.

The Complainant is also the owner of various domain names, including the following:-

- <sanofi.com>, registered on October 13, 1995;
- <sanofi.eu>, registered on March 12, 2006;
- <sanofi.fr>, registered on October 10, 2006;
- <sanofi.org>, registered on July 12, 2001; and
- <sanofi.mobi>, registered on June 20, 2006;

The disputed domain name <sanofi-global.com> was registered on February 8, 2023. It currently resolves to an inactive webpage.

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:

- (i) The disputed domain name is confusingly similar to the SANOFI trademark in which the Complainant has rights. The disputed domain name exactly reproduces the Complainant's SANOFI trademark combined with a hyphen and a descriptive term followed by the Top-Level Domain suffix ".com". The Complainant's SANOFI trademark is highly distinctive, has been used for over 40 years, and is a very well-known trademark

in many jurisdictions. The Complainant's SANOFI trademark is registered worldwide, including in China. It is therefore likely that the Respondent is attempting to ride off the reputation and goodwill of the Complainant. The disputed domain name contains the Complainant's SANOFI trademark in its entirety with no alterations, with the addition of a hyphen and the geographically indicative suffix "global", and the generic Top-Level Domain ("gTLD") ".com". The additional suffix "-global" is a strong suggestion to Internet users that the disputed domain name is affiliated to the Complainant as it is a global company.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. First and foremost, the fact that the Respondent did not provide details of his identity is indicative that he has no legitimate interests in the disputed domain name. The Complainant is not affiliated with the Respondent, and has never licensed or authorised the Respondent to use its SANOFI trademark in any way whatsoever, including in a domain name or otherwise. The disputed domain name resolves to an inactive webpage, which is clear evidence that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and is also not using the disputed domain name in connection with a *bona fide* offering of goods or services, so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy.

(iii) The disputed domain name was registered and is being used in bad faith. The fact that the Respondent concealed his identity is evidence of bad faith. The disputed domain name was clearly registered in an attempt to target the Complainant's trademark. The Complainant's SANOFI trademark is highly distinctive. Further, given the fame of the SANOFI trademark, the Respondent ought to have actual or constructive knowledge of the Complainant's SANOFI trademark. Further, this is evidence that the disputed domain name was created for the purpose of attracting Internet traffic to the Respondent's webpage by creating a likelihood of confusion with the SANOFI trademark and the disputed domain name. The passive holding of the disputed domain name is also evidence of bad faith. Further, this passive holding may mislead Internet users to believe that the Complainant is not on the Internet, or worse, that the Complainant is out of business.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issues

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

(i) the disputed domain name is an exact reproduction of the Complainant's SANOFI trademark with the addition of the English suffix "-global", and the gTLD ".com". The choice of the Respondent in selecting English characters and terms is evidence that he is familiar with the English language;

(ii) the disputed domain name consists of Latin characters rather than Chinese characters;

(iii) the Registrar of the disputed domain name, Alibaba Cloud Computing Ltd d/b/a HiChina, is a company which incorporates the English words "Cloud", "Computing", the geographical term "China" in Latin

characters, the English acronym “Ltd”, and the term “d/b/a, in its name. The choice of the Respondent in selecting such a company to be the registrar of the disputed domain name is evidence that he is familiar with the English language; and

(iv) The Complainant is a French company and is unable to communicate in Chinese. Requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainant having to incur substantial expenses for translation.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 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 mark is recognizable 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, “-global”, may bear on assessment of the second and third elements, the Panel finds the addition of such a 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.

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.

The Complainant's registration of its trademark(s) predates the registration of the disputed domain name. The disputed domain name is currently inactive and there is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or for a legitimate noncommercial or fair use purpose.

The Panel also finds that the use of the Complainant's SANOFI trademark in its entirety carries a risk that the disputed domain name would be perceived by Internet users to be affiliated with the legitimate holder of the trademark, *i.e.*, the Complainant. See [WIPO Overview 3.0](#), section 2.5.1. It has been held by prior UDRP panels that where a domain name consists of a trademark, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The Respondent's choice of a combination of a well-known trademark associated with the Complainant shows a clear intent to mislead unsuspecting Internet users expecting to find the Complainant and instead are redirected to an inactive website. This is further reinforced by the choice of suffix, "-global", heavily implying that the disputed domain name is affiliated with an entity with a global presence, such as the Complainant.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain name.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name long after the Complainant registered its SANOFI trademark. Given the distinctiveness of the Complainant's mark and its good will, it is highly unlikely that the Respondent did not know of the Complainant and its SANOFI trademark prior to the registration of 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 (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, 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.

The Panel also draws an adverse inference from the Respondent's failure to file any Response or to rebut the Complainant's assertions and agrees that the circumstances constitute evidence of bad faith registration and use under the Policy.

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-global.com> be cancelled.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: January 16, 2024