

ADMINISTRATIVE PANEL DECISION

Sanofi and Sanofi-Aventis Deutschland GmbH v. Privacy protection /
LIUQINGRU

Case No. D2022-0814

1. The Parties

The Complainant is Sanofi, France, and Sanofi-Aventis Deutschland GmbH, Germany, represented by Selarl Marchais & Associés, France (cumulative referred to as “the Complainant”).

The Respondent is Privacy protection, United States of America / LIUQINGRU, China.

2. The Domain Name and Registrar

The disputed domain name <dulcolax.xyz> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2022. On March 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 10, 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 Center sent an email communication to the Complainant on March 10, 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 March 11, 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 March 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 29, 2022.

The Center appointed R. Eric Gaum as the sole panelist in this matter on May 12, 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 the owner of the following registered trademarks: European Union trademark DULCOLAX No. 002 382 059, filed on September 19, 2001 and registered on November 29, 2002 and in class 5 concerning pharmaceutical products; International trademark DULCOLAX No. 165781, filed and registered on December 10, 1952 in classes 1 and 5 concerning pharmaceutical products and designating amongst others Switzerland, Australia, Island, Israel, Albania, Morocco, Egypt, Croatia, Vietnam, Ukraine; and International trademark DULCOLAX and Design No. 937960A, filed and registered on August 16, 2007 in class 5 concerning pharmaceutical products and designating amongst others Switzerland, Australia, EU, Japan, Korea, Norway, Singapore, United States of America, Russian Federation.

On February 21, 2022, the Respondent registered the Domain Name <dulcolax.xyz>, and it resolved to an inactive parking page indicating that the domain name is for sale for USD 955.

5. Parties' Contentions

A. Complainant

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 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 DULCOLAX trademarks are owned by Sanofi-Aventis Deutschland GmbH, a subsidiary of Sanofi. DULCOLAX is a brand of laxative that stimulates bowel movements manufactured by the Complainant. It is used to treat constipation or to empty the bowels. In addition to the DULCOLAX trademarks, Sanofi also owns the <dulcolax.com> and <dulcolax.info> domains.

All of the DULCOLAX trademarks and domain names were registered all over the world long before the registration of the Domain Name. It should be highlighted that the Respondent could not simply ignore the DULCOLAX trademarks as used worldwide, including in the United States of America.

The Domain Name reproduces identically the DULCOLAX trademarks, which, as themselves, do not have any particular meaning and are therefore highly distinctive, and what is sufficient to create a likelihood of confusion between the Domain Name and the Complainant's aforementioned trademarks.

The Respondent does not have any legitimate interest in using the Domain Name since its name does not bear any resemblance with the word "DULCOLAX." In addition, the Complainant has never licensed or otherwise authorized the Respondent to use its trademarks or to register any domain name including the DULCOLAX trademarks. Finally, the Respondent is not making a legitimate non-commercial or fair use of the Domain Name or using it in connection with a *bona fide* offering of goods or services. Instead, the Domain Name refers to an inactive parking page indicating that the Domain Name is for sale.

The Domain Name was registered in bad faith. First, the Respondent has neither prior rights nor legitimate interest to justify the use of the already well-known and worldwide trademarks of the Complainant. Furthermore, the absence of legitimate interest somewhat induces that of good faith. Second, it should be considered that, given the famous and distinctive nature of the SANOFI trademark, the Respondent is likely to have had, at least, constructive, if not actual notice, as to the existence of the Complainant's SANOFI trademarks at the time he registered the Domain Name. This suggests that the Respondent acted with

opportunistic bad faith in registering the Domain Name in order to make an illegitimate use of it. Third, the Domain Name has been registered for the purpose of attracting Internet users to the Respondent's website by creating a likelihood of confusion – or at least an impression of association – between the DULCOLAX trademarks and the Domain Name.

The Domain Name is being used in bad faith. First, it is clear that, given the famous nature of the SANOFI brand the Respondent is likely to have had, at least, constructive, if not actual notice, as to the Complainant's marks at the time he registered the Domain Name. This suggests that the Respondent acted with opportunistic bad faith in registering the Domain Name in order to make an illegitimate use of it. Second, the Domain Name resolves to a mere parking website indicating that the it is for sale for USD 955. Third, the lack of use of the Domain Name particularly close to those used by the Complainant is likely to cause irreparable prejudice to their general goodwill because Internet users could be led 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

The Policy is addressed to resolving disputes concerning allegations of abusive domain name registration. The Panel will confine itself to making determinations necessary to resolve this administrative proceeding.

It is essential to dispute resolution proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy, and the Rules, establish procedures intended to assure that respondents are given adequate notice of proceedings commenced against them, and a reasonable opportunity to respond (see, *e.g.*, paragraph 2(a) of the Rules).

The Center forwarded notification of the Complaint to the Respondent via email and the written notice of the proceeding via courier in accordance with the contact details found in, *inter alia*, the appropriate Whois database and as confirmed by the Registrar. The Center also forwarded notification of default to the Respondent via email.

Based on the methods employed to provide the Respondent with notice of the proceeding the Panel is satisfied that the Center took all steps reasonably necessary to notify the Respondent. The Panel also finds that the failure of the Respondent to furnish a reply is not due to any omission by the Center.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration, and to obtain relief. These elements are that:

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

In this administrative proceeding, the Complainant must prove that each of these three elements is present. As the Respondent has failed to submit a response to the Complaint, the Panel may accept as true all of the reasonable allegations of the Complaint (see *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

Based upon the registered trademarks for DULCOLAX, and the continuous use of the marks, the Complainant clearly has rights in the marks. The Panel agrees with the Complainant that the Domain Name <dulcolax.xyz> is confusingly similar with the Complainant's marks. The Domain Name includes the Complainant's registered marks DULCOLAX in their entirety. The generic top level domain ".xyz" is irrelevant.

The Panel finds that the Domain Name is identical to the DULCOLAX trademarks owned by the Complainant pursuant to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several circumstances, without limitation, that if found by the panel shall demonstrate the respondent's rights or legitimate interests to a domain name for purposes of paragraph 4(a)(ii). In particular, paragraph 4(c) states:

"(i) before any notice to you [respondent] of the dispute, your 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) you (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) you are 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 Complainant has not licensed or authorized the Respondent to use its trademarks in any manner and there has never been any relationship between them.

There is no evidence in the record that would indicate that the Respondent has any rights or legitimate interests in respect of the Domain Name within the meaning of paragraph 4(c) of the Policy, or otherwise. The Respondent has not come forward to assert any rights or legitimate interests in the Domain Name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists several circumstances, 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.

"(i) circumstances indicating that you [respondent] have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

Based on the facts alleged in the Complaint, which the Respondent has made no effort to rebut, the Panel finds that the Domain Name was clearly registered and used in bad faith by the Respondent. The apparent lack of any active website at the Domain Name, which itself is identical to the Complainant's highly distinctive DULCOLAX trademarks, and instead a parking website indicating that the Domain Name is for sale for USD 955 is registration and use in bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#) ("The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith."); and *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) ("[The domain name] is so obviously connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith.").

The Panel finds that the Respondent's registration and use of the Domain Name, with actual or constructive knowledge of the Complainant's trademark rights, establishes the Respondent's registration and use of the Domain Name in bad faith pursuant 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 <dulcolax.xyz> be transferred to the Complainant.

/R. Eric Gaum/

R. Eric Gaum

Sole Panelist

Date: May 19, 2022