

## **ADMINISTRATIVE PANEL DECISION**

Sanofi v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / zname  
Case No. D2022-1782

### **1. The Parties**

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

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States of America / zname, Hong Kong, China.

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

The disputed domain name <sanofi2020.com> is registered with Click Registrar, Inc. d/b/a publicdomainregistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 17, 2022. On May 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 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 May 24, 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 May 24, 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 May 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2022. On May 25 and May 27, 2022, the Center received email communications from the Respondent’s email account stating that a third party was the registrant of the disputed domain name. On May 30, 2022, the Center forwarded a copy of the Notification of Complaint and Commencement of Administrative Proceeding to this third party. The Respondent did not send any further email communication to the Center. Nor did the Center receive any email communication from this third

party. The Center notified the Parties of the commencement of Panel Appointment Process on June 17, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on June 28, 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 multinational pharmaceutical company headquartered in France. It operates in more than 100 countries on five continents and employs approximately 100,000 people. According to the Complainant, it is the fourth largest pharmaceutical company by prescription sales in the world, and in 2020, its consolidated net sales amounted to EUR 36.04 billion. Historically, the company was formed as Sanofi-Aventis in 2004 by the merger of Aventis and Sanofi-Synthélabo, and changed its name to Sanofi in May 2011.

The Complainant is the owner of the following trademark registrations (among other registrations) for the sign "SANOFI" (the "SANOFI trademark"):

- French trademark SANOFI (word) with registration No. 1482708, registered on August 11, 1988, for goods in International Classes 1, 3, 4, 5, 10, 16, 25, 28, and 31;
- European Union Trade Mark SANOFI (device) with registration No. 000596023, registered on February 1, 1999, for goods in International Classes 3 and 5;
- International trademark SANOFI (device) with registration No. 591490, registered on September 25, 1992, for goods in International Class 5, designating *inter alia* China.

The Complainant is also the owner of the domain name <sanofi.com>, registered on October 13, 1995, which resolves to its official website.

The disputed domain name was registered on March 14, 2022. It resolves to a pornographic website with gaming and betting links.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain name is confusingly similar to its SANOFI trademark, which it incorporates in its entirety with the addition of the number "2020". According to the Complainant, this addition is insufficient to avoid confusing similarity, and only suggests that the disputed domain name is related to the Complainant's activities in the year 2020.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant has not authorized it to use the SANOFI trademark or to register any domain name including the Complainant's trademark, and the Respondent is not known under the disputed domain name. The Complainant states that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and is not using it in connection with a *bona fide* offering of goods or services, because the disputed domain name refers to a pornographic website, apparently aimed at the Asian audience. According to the Complainant, the disputed domain name has been registered only for the purpose to unfairly attract the Complainant's consumers by misleading them that the Respondent is connected to the Complainant or its activities are approved by the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

The Complainant points out that, given the famous and distinctive nature of the SANOFI trademark, the Respondent is likely to have had knowledge of the Complainant's trademark when it registered the disputed domain name, and has acted with opportunistic bad faith in registering the disputed domain name to illegitimately attract Internet users to the Respondent's website by creating a likelihood of confusion between the SANOFI trademark and the disputed domain name. The Complainant points out that the disputed domain name resolves to a pornographic website, which may prejudice the goodwill of the Complainant.

## **B. Respondent**

The Respondent did not formally reply to the Complaint. In its informal communications, it only stated that a third party was the registrant of the disputed domain name. The third party mentioned by the Respondent was notified of the proceeding, but did not submit any communication during the proceeding.

## **6. Discussion and Findings**

### **6.1. Procedural Issue – Identity of the Respondent**

The Respondent submits that another party (Zhichao Qin, China) is the registrant of the disputed domain name, without providing any supporting evidence. The third party Zhichao Qin was notified of the proceeding, but did not participate in it and did not make any statement either confirming or denying that he is the registrant of the disputed domain name.

Paragraph 1 of the Rules defines respondent as “the holder of a domain-name registration against which a complaint is initiated”. The Whois record for the disputed domain name indicates that its registrar is the Registrar. The Registrar has confirmed that the Respondent is the registrant of the disputed domain name.

In view of the above, the Panel will rely on the confirmation by the Registrar that the Respondent is the registrant of the disputed domain name and will proceed on this basis. The Panel notes that in any case, even if the registrant of the disputed domain name is different from the Respondent, the substantive issues to be considered are essentially the same, and all references to the Respondent in this decision shall be construed to include the actual registrant of the disputed domain name. See *Association des Centres Distributeurs E. Leclerc – A.C.D. Lec v. WhoisSecure / johnson, GN*, WIPO Case No. [D2022-0152](#).

### **6.2. Substantive issues**

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

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

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

The Respondent however did not submit a formal Response in this proceeding.

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that it is the owner of various registrations of the SANOFI trademark and has thus established its rights in this trademark for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” TLD section of the disputed domain name.

The disputed domain name incorporates the SANOFI trademark in its entirety with the addition of the number “2020”, and the trademark is easily recognizable in the disputed domain name. In cases where 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. See section 1.8 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the SANOFI trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, stating that the Respondent is not commonly known under the disputed domain name and that the Complainant has not authorized the Respondent to use the SANOFI trademark. The Complainant points out that the Respondent is using the disputed domain name for a pornographic website. Thus, 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 submitted a formal Response and has not alleged that it has rights or legitimate interests in the disputed domain name and has not disputed the Complainant’s allegations in this proceeding. The evidence submitted by the Complainant shows that the disputed domain name indeed resolves to a pornographic website. The Panel also notes that the website displays gaming and gambling links.

In view of the above, the Panel is satisfied that it is more likely than not that the Respondent, being aware of the goodwill of the Complainant’s SANOFI trademark, has registered the disputed domain name in an attempt to exploit the trademark’s goodwill to attract Internet users to the Respondent’s pornographic website. This conduct is not legitimate or giving rise to rights or legitimate interests on the Respondent in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you 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.”

As discussed above, the disputed domain name is confusingly similar to the SANOFI trademark and has been used for a pornographic website with gaming and gambling links. Moreover, the disputed domain name was registered long after the Complainant first registered and began using its widely known SANOFI trademark. Taking this into account, the Panel accepts that it is more likely than not that the Respondent has registered and used the disputed domain name with knowledge of the Complainant and targeting the SANOFI trademark in an attempt to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the SANOFI trademark as to the affiliation or endorsement of the disputed domain name, and then to offer them pornographic content and links related to gaming and gambling.

On this basis, the Panel finds that the disputed domain name has been registered and used in bad faith.

### **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 <sanofi2020.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: July 12, 2022