

## **ADMINISTRATIVE PANEL DECISION**

Sanofi v. Alexandre Miller

Case No. D2022-4609

### **1. The Parties**

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

The Respondent is Alexandre Miller, France.

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

The disputed domain name <pharmaciesanofi.com> is registered with Gandi SAS (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 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 December 5, 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 December 6, 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 December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on January 6, 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

SANOFI is a French multinational pharmaceutical company headquartered in Paris (France), ranking 4th world's largest multinational pharmaceutical company by prescription sales, settled in more than 100 countries on all 5 continents, employing 100,000 people.

SANOFI 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 owns numerous trademarks, including the following ones:

- French trademark SANOFI, registered on No. 1482708 on August 11, 1988;
- French trademark SANOFI, registered under No. 96655339 on December 11, 1996;
- European Union trademark SANOFI, registered under No. 000596023 on February 1, 1999;
- European Union trademark SANOFI, registered under No. 004182325 on February 9, 2006.

In addition, the Complainant owns various domain names that contain the trademark SANOFI and notably the domain names:

- <sanofi.com> registered on October 13, 1995;
- <sanofi.eu> registered on March 12, 2006 (Annex 9.2);
- <sanofi.fr> registered on October 10, 2006

The disputed domain name was registered on October 28, 2022, and leads to an inactive template page, with inoperable buttons and hyperlinks.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant claims that the disputed domain name is (i) identical or confusingly similar to its earlier trademarks, (ii) that the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) that the disputed domain name has been registered and is being used in bad faith.

- (i) The Complainant claims that the disputed domain name is confusingly similar to its well-known trademarks, since the disputed domain name reproduces its SANOFI trademark together with the generic terms "pharmacie", meaning "pharmacy" in English, and which is descriptive considering the Complainant's medical and scientific activities as well as the Complainant's French nationality. For the Complainant, the Respondent selected the disputed domain name in a specific attempt of free-riding on the coat tails of the fame of the Complainant's SANOFI trademarks, regardless of the adding of the descriptive word "pharmacie".
- (ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the Complainant has not licensed or otherwise permitted the Respondent to use its trademark SANOFI. Furthermore, the Complainant contends that the disputed domain name is not used in connection with a *bona fide* offering of goods or services, as the disputed domain name leads to an inactive template page, with inoperable buttons and hyperlinks.
- (iii) Due to the strong reputation and well-known character of the Complainant and its trademarks, the Complainant considers that the Respondent must have had the SANOFI trademarks in mind when registering the disputed domain name. The Complainant also claims that the Respondent's use of the disputed domain name is made in bad faith, as it aims to cause confusion among Internet users as to the source of the disputed domain name. Furthermore, the Complainant claims that the fact that the disputed domain name leads to an inactive template page, with inoperable buttons and hyperlinks constitutes bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

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

The Complainant has provided evidence to establish its rights in earlier trademarks SANOFI that are widely known as have been recognized as such by previous UDRP decisions.

The Complainant's trademark SANOFI is incorporated in its entirety in the disputed domain name together with the term "pharmacie", meaning "pharmacy" in English. The addition of such term does not prevent a finding of confusing similarity under the first element. Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

Thus, the requirement of paragraph 4(a)(i) of the Policy is met.

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

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

Following the disclosure of the Respondent's identity, the Complainant asserts that the Respondent is not sponsored by or affiliated with the Complainant in any way. And the Complainant has not given the Respondent any permission to use the Complainant's trademarks in any manner, including in domain names. Furthermore, the Respondent is not commonly known as a business or individual by the disputed domain name.

The fact that the disputed domain name leads to an inactive template page, with inoperable buttons and hyperlinks is further evidence that the Respondent has not been using or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services. It is on the contrary evidence suggesting that the Respondent is not making a legitimate noncommercial, or fair use of the disputed domain name.

Moreover, the nature of the disputed domain name is inherently misleading and carries a risk of an implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Thus, in the absence of a response, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Complainant has submitted evidence that its activity and trademarks are widely known and enjoy a worldwide reputation that has been acknowledged by previous panels.

Thus, the registration of a domain name that comprises such a well-known and anterior trademark suggests that the Respondent had the Complainant's name and trademark in mind when registering the disputed domain name. All the more so since the Complainant operates in the country, France, where the Respondent is located. Further, the Panel's finding is reinforced given that the Respondent has conjoined the Complainant's trademark with the French term "pharmacie", which is descriptive of the Complainant's medical activities.

As a result, the Panel finds that the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities at the time of registration of the disputed domain name.

As per the use in bad faith, such registration of a disputed domain name that is confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, and the Panel finds that such registration was most likely done in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the disputed domain name. Such use cannot be considered a good-faith use.

Finally, given the renown of the Complainant's SANOFI trademark worldwide, it is simply not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent who has no affiliation with the Complainant (or by a third party) that would not be illegitimate, as any such use would inevitably result in misleading diversion of consumers and taking unfair advantage of the Complainant's right.

While the website at the disputed domain name appears to be inoperable and merely a template provided by Wordpress, the Respondent's non-use of the disputed domain name does not prevent a finding of bad faith given the circumstances described above. Moreover, the Panel takes note that the courier was unable to

deliver the Center's written communication to the Respondent per the details disclosed by the Registrar, suggesting that the Respondent has provided false or incomplete contact details, which is a further inference of bad faith.

For all of the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being 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 <pharmaciesanofi.com> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: January 20, 2023