

ADMINISTRATIVE PANEL DECISION

Sanofi v. Robert One
Case No. D2023-1638

1. The Parties

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

The Respondent is Robert One, United States of America.

2. The Domain Name and Registrar

The disputed domain name <samofi.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 14, 2023. On April 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 18, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 9, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on June 13, 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

The Complainant is a multinational pharmaceutical company headquartered in France, with consolidated net sales of EUR 37,7 billion in 2021. It is active in more than 100 countries on all 5 continents employing 100,000 people and had an R&D investment of EUR 5.9 billion in 2019.

The Complainant is the registered proprietor of numerous trademarks consisting of the term SANOFI, and SANOFI combined with device elements. Those registrations include the French trademark SANOFI number 96655339, registered on December 11, 1996; French trademark SANOFI number 1482708, registered on August 11, 1988; European Union trademark SANOFI number 010167351, filed on August 2, 2011 and registered on January 7, 2012; European Union trademark SANOFI number 004182325, filed on December 8, 2004 and registered on February 9, 2006; European Union trademark SANOFI number 000596023, filed on July 15, 1997 and registered on February 1, 1999; International trademark SANOFI number 1092811, registered on August 11, 2011 designating among others Australia, Georgia, Japan, Republic of Korea, Cuba, Russian Federation, Ukraine...; International trademark SANOFI number 1094854, registered on August 11, 2011 designating among others Australia, Georgia, Japan, Republic of Korea, Cuba, Russian Federation, Ukraine and Iceland; International trademark SANOFI number 674936, filed and registered on June 11, 1997 designating among others Switzerland, Cuba, Romania, Russian Federation, Ukraine; and United States of America trademark SANOFI number 85396658, filed on August 12, 2011 and registered on July 24, 2012.

The Complainant also operates official websites, including ones resolving to the following domain names: <sanofi.com> registered on October 13, 1995; <sanofi.eu> registered on March 12, 2006; and <sanofi.fr> registered on October 10, 2006.

The disputed domain name was registered on November 22, 2022 and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant says that the disputed domain name imitates its SANOFI trademark, which it refers to as being highly distinctive. The Complainant has used its SANOFI name for over 40 years and has invested substantial financial resources over the years to advertise and promote the company and its SANOFI trademarks in countries all over the world. The Complainant contends that the disputed domain name is confusingly similar to its prior-registered SANOFI trademarks, as it is an intentional misspelling of "SANOFI" with a high degree of resemblance. The difference is limited to the substitution of the letter "n" in SANOFI by the letter "m" in SAMOFI. The registration of the disputed domain name is said to be an instance of typosquatting, the typographical difference being irrelevant and in pronunciation unnoticeable. The Complainant says Panels consistently find a likelihood of confusion between a previous trademark and a disputed domain name in cases of typosquatting. The substitution of "m" for "n" is insufficient to alleviate the likelihood of confusion between the Complainant's SANOFI trademarks and domain names and the disputed domain name. The Complainant says the likelihood of confusion is further enhanced by the fact that its SANOFI trademark is well-known.

The Complainant then submits that the Respondent has no rights or legitimate interests in the disputed domain name, as he is not known as such, the SANOFI mark is not a descriptive but highly distinctive term, and the Respondent has not been licensed or authorized to use the said mark. The disputed domain name only links to an inactive website and therefore it is clear that the Respondent is not making a legitimate noncommercial or fair use of it nor using it in connection with a *bona fide* offering of goods or services.

The Complainant further maintains that Panels commonly find opportunistic bad faith where a disputed domain name includes a distinctive and, as the Complainant maintains well-known trademark. The absence

of rights or legitimate interests the Complainant argues for above, also infers bad faith in the registration of the disputed domain name. According to the Complainant, because the SANOFI marks are famous and distinctive, 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 he registered the disputed domain name. The Complainant says the disputed domain name was obviously registered for the purpose of creating confusion – or at least an impression of association – with the SANOFI trademarks and domain names. The Complainant adds that in cases in which the well-known status of a complainant's trademarks is well established, numerous prior Panels have acknowledged that this consideration is, in and of itself, indicative of bad faith registration and use. The Complainant says 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 products to pages to which that domain name might resolve.

Opportunistic bad faith registration is said to be sufficient to support a finding of bad faith use as well. Since the *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) Panel decision, it has been accepted that passive holding of a disputed domain name, a fortiori one containing a well-known trademark, amounts to bad faith use, the Complainant maintains. This is in part because it is difficult to envisage any honest use of such a domain name by a party unrelated to the owner of the trademark comprised within it.

The Complainant finalizes its submissions by arguing that the lack of genuine use of a disputed domain name that so closely resembles a trademark of a Complainant is likely to cause irreparable prejudice to the latter's 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

A. Identical or Confusingly Similar

The disputed domain name is not strictly speaking identical to the SANOFI trademark of the Complainant, but it so nearly resembles it as to be almost indistinguishable. The only difference is the substitution of "M" for "N", which is easily missed visually. Those two letters are also very similar in pronunciation. In any case, it is sufficient that the Complainant's trademark be recognizable in the disputed domain name, which is clearly the case, given also how easy it is for an Internet user not to register the very small difference between SANOFI and "samofi", or to mistype "samofi" for "sanofi". There is thus no doubt that the disputed domain name is a typical example of typosquatting and therefore also confusingly similar to the SANOFI trademark of the Complainant.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the SANOFI trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent has not replied to any of the contentions of the Complainant, and the latter need not do more than establish a *prima facie* case that the former has no rights or legitimate interests in the disputed domain name. The Respondent has clearly not been authorized to use the trademarks of the Complainant or to reflect them or something almost identical to them in a domain name registered by it. There is nothing before the Panel to indicate that the Respondent had any prior-acquired legitimate interests or rights in the term SAMOFI or that it is known by this term or the disputed domain name. There is no actual website use linked to the disputed domain name so no support for any of the potentially justifying grounds for registering

a domain name that includes an unrelated party's trademark. It is in any case difficult to imagine that the Respondent has any interest other than attempting to monetize the disputed domain name by misleading consumers to the detriment and injury of the Complainant. Such is not a legitimate interest.

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

C. Registered and Used in Bad Faith

The SANOFI trademark is highly distinctive, has been in use for many decades both as a mark and a trade name, and is the principal registered trademark of one of the largest pharmaceutical companies in the world, with a presence in many jurisdictions. It is inconceivable that the Respondent was unaware of the Complainant, the proprietary nature of its SANOFI marks and the unique goodwill attaching to them when he registered the disputed domain name. The slight change to "samofi" is a further indication that the Respondent deliberately and knowingly chose the disputed domain name intending to typosquat on the Complainant's mark. The fact that the Respondent made no actual use of the disputed domain name in relation to a connected website does not mean there is an absence of bad faith on its part. With a trademark as distinctive and widely known as the SANOFI trademark, it is difficult to envisage any legitimate use of the disputed domain name, and of whatever such hypothetical use or preparation for use there might be, there is absolutely no evidence.

Therefore, the Panel holds that the disputed domain name was 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 <samofi.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: June 27, 2023