

ADMINISTRATIVE PANEL DECISION

Sanofi and Genzyme Corporation v. 杨智强 (Zhi Qiang Yang)
Case No. D2023-2222

1. The Parties

The Complainants are Sanofi, France; and Genzyme Corporation, United States of America (“U.S.”), represented by Selarl Marchais & Associés, France.

The Respondent is 杨智强 (Zhi Qiang Yang), China.

2. The Domain Name and Registrar

The disputed domain name <sanofigenzym.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on May 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint in English on May 24, 2023.

On May 24, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 31, 2023, the Complainants submitted their request for English to be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on June 6, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was June 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 27, 2023.

The Center appointed Francine Tan as the sole panelist in this matter on July 3, 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 Complainants are Sanofi and Genzyme Corporation.

Sanofi

Sanofi is a French multinational pharmaceutical company headquartered in Paris, France, and is ranked the world's fourth largest pharmaceutical company by prescription sales. It is located in more than 100 countries with over 100,000 employees. Sanofi engages in research and development ("R&D"), manufacturing, and marketing of pharmaceutical products for sale, principally in the prescription market, but also develops over-the-counter medication.

Sanofi is a full member of the European Federation of Pharmaceutical Industries and Associations. It was formerly known as Sanofi-Aventis, established in 2004 by the merger of Aventis and Sanofi-Synthélabo. Its name was changed to Sanofi in May 2011.

Sanofi manages a large portfolio of high-growth drugs. With an R&D investment of EUR 5.9 billion in 2019, its portfolio includes 84 projects in clinical development, 28 of which are at advanced stages. Sanofi offers a wide range of patented prescription drugs to treat patients with serious diseases and has leading positions in seven major therapeutic areas, namely cardiovascular, thrombosis, metabolic disorders, oncology, central nervous system, internal medicine, and vaccines.

The Complainants state that Sanofi is the owner of the following registered trade marks, among others:

- French Trade Mark Registration No. 96655339 for  , registered on December 11, 1996;
- French Trade Mark Registration No. 92412574 for  , registered on March 26, 1992;
- French Trade Mark Registration No. 1482708 for SANOFI, registered on August 11, 1988;
- European Union ("EU") Trade Mark No. 010167351 for SANOFI, registered on January 7, 2012;
- EU Trade Mark No. 004182325 for SANOFI, registered on February 9, 2006;
- EU Trade Mark No. 000596023 for  , registered on February 1, 1999;
- International Trade Mark Registration No. 1092811 for SANOFI, registered on August 11, 2011;
- International Trade Mark Registration No. 1094854 for SANOFI, registered on August 11, 2011;
- International Trade Mark Registration No. 674936 for SANOFI, registered on June 11, 1997;

- French Trade Mark Registration No. 4369730 for SANOFI GENZYME, registered on June 19, 2017; and
- EU Trade Mark No. 1443197 for SANOFI GENZYME, registered on May 28, 2018.

The Complainants state that Sanofi owns the following domain names, all of which contain the SANOFI trade mark:

- <sanofi.com>, registered on October 13, 1995;
- <sanofi.cn>, registered on April 28, 2004;
- <sanofi.eu>, registered on March 12, 2006;
- <sanofi.fr>, registered on October 10, 2006;
- <sanofi.us>, registered on May 16, 2002;
- <sanofi.net>, registered on May 16, 2003;
- <sanofi.ca>, registered on January 5, 2004;
- <sanofi.biz>, registered on November 19, 2001;
- <sanofi.info>, registered on August 24, 2001;
- <sanofi.org>, registered on July 12, 2001;
- <sanofi.mobi>, registered on June 20, 2006;
- <sanofi.tel>, registered on March 17, 2011;
- <sanofigenzyme.com>, registered on September 3, 2015; and
- <sanofi-genzyme.com>, registered on August 2, 2010.

Genzyme Corporation

Genzyme Corporation is an American biotechnology company founded in 1981 and owned by Sanofi. As at 2010, Genzyme Corporation was the world's third largest biotechnology company, employing more than 11,000 people around the world. As a subsidiary of Sanofi, Genzyme Corporation has a presence in approximately 65 countries, including 17 manufacturing facilities and nine genetic-testing laboratories. Genzyme Corporation's products are sold in 100 countries. Genzyme Corporation is composed of two business units - Rare Diseases and Multiple Sclerosis - that develop treatments for serious and debilitating diseases in the fields of genetic, endocrine, and cardiovascular diseases.

The Complainants state that Genzyme Corporation is the owner of the following registered trade marks, among others:

- U.S. Trade Mark Registration No. 1859429 for GENZYME, registered on October 25, 1994;
- EU Trade Mark No. 002348852 for GENZYME, registered on April 17, 2003;
- Chinese Trade Mark Registration No. 3160697 for GENZYME, registered on June 21, 2003; and
- Chinese Trade Mark Registration No. 3160699 for GENZYME, registered on November 7, 2003.

The Complainants state that Genzyme Corporation owns the following domain names containing its GENZYME trade mark:

- <genzyme.fr>, registered on March 19, 2003;
- <genzyme.cn>, registered on June 11, 2004;
- <genzyme.net>, registered on August 5, 2000;
- <genzyme.com>, registered on August 14, 1996;
- <genzyme.org>, registered on August 5, 2000; and
- <genzyme.com.cn>, registered on December 16, 2002.

The disputed domain name was registered on April 29, 2023, and at the time of the filing of the Complaint, it resolved to a parking page displaying Pay-Per-Click (“PPC”) links such as “Biggest Pharmaceutical Companies” and “Antibody Humanisation”.

5. Parties’ Contentions

A. Complainants

The disputed domain name is confusingly similar to the Complainants’ SANOFI and GENZYME marks. The disputed domain name is composed of the SANOFI and GENZYME marks, each of which does not have any particular meaning and is therefore highly distinctive. Sanofi, the parent company of Genzyme Corporation, is a multinational company in the pharmaceutical field which develops, manufactures, distributes and sells a wide variety of pharmaceutical products under the SANOFI trade mark. Sanofi has used its trade mark and trade name for over 40 years and invested substantial financial resources over the years to advertise and promote the company and its trade marks worldwide. The reproduction of the SANOFI and GENZYME trade marks (albeit the last letter “e” is omitted in the disputed domain name) renders the disputed domain name identical or at least confusingly similar to the Complainants’ trade marks, regardless of the generic Top-Level Domain (“gTLD”) extension “.com”. It is well established that where a domain name wholly incorporates a complainant’s distinctive trade mark in its entirety, it is confusingly similar to that mark. Therefore, the omission of the letter “e” in the GENZYME mark in the disputed domain name is insufficient to alleviate the likelihood of confusion between the Complainants’ SANOFI and GENZYME trade marks and disputed domain name.

There exists an inevitable risk that the disputed domain name will cause confusion as it could lead average consumers to mistakenly believe that the disputed domain name is related to the Complainants’ official SANOFI and GENZYME websites. The disputed domain name can be perceived as one of the Complainants’ special websites designed to provide details on SANOFI and GENZYME activities, which is bound to create a likelihood of confusion between the disputed domain name and the Complainants’ registered trade marks and domain names. Further, the SANOFI trade mark is considered “well-known” in many jurisdictions by panels in numerous prior UDRP decisions.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainants have never licensed or otherwise authorized the Respondent to use their trade marks or to register any domain name incorporating their respective trade marks. There is no relationship between the Parties. The Respondent has usurped the Complainants’ SANOFI and GENZYME trade marks for his own use without the Complainants’ authorization.

The Respondent is 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 given that the webpage to which the disputed domain name resolves is clearly used as a “bait and switch”. The parked website shows that the disputed domain name was registered only for the purpose of unfairly attracting the Complainants’ customers. The said webpage displays links such as “Biggest Pharmaceutical Companies” and “Antibody Humanisation” demonstrates that the disputed domain name was registered to mislead consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainants and their business, or that the Respondent’s activities are approved or endorsed by the Complainants. By clicking on the links, an Internet user is redirected to a page displaying sponsored listings. Thus, the Respondent is using the disputed domain name to obtain commercial gain by misleadingly diverting consumers.

The disputed domain name was registered and is being used in bad faith. It is no coincidence that the Respondent registered the disputed domain name which corresponds to the trade marks and domain names owned by the Complainants. The Respondent has neither prior rights nor legitimate interests to justify the registration or use of the already globally well-known trade marks of the Complainants. Given the famous and distinctive nature of the SANOFI and GENZYME marks, the Respondent is likely to have had, at least,

constructive, if not actual notice, of the Complainants' marks at the time he registered the disputed domain name. The Respondent acted with opportunistic bad faith in registering the disputed domain name in order to make illegitimate use of it. The disputed 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 GENZYME and SANOFI trade marks and the disputed domain name. SANOFI is one of the most cybersquatted trade marks. The disputed domain name has been registered and is being used in bad faith by the Respondent, for the primary purpose of riding off and gaining unfair benefit from the Complainants' reputation and the reputation of their trade marks.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. The Complainants requested that the language of the proceeding be English for the following main reasons:

- (i) the Complainants' business is primarily operated in English and the Complainants are unable to communicate in Chinese;
- (ii) the disputed domain name is an exact reproduction of the Complainants' SANOFI trade mark and a closely similar reproduction of the GENZYME trade mark, followed by the gTLD extension ".com". The disputed domain name uses Latin characters rather than Chinese script; and
- (iii) requiring the Complaint to be translated into Chinese would result in the proceedings being unduly delayed and the Complainants having to incur substantial expenses for translation.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

"Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) states the following:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix)

currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.”

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understands the English language. The PPC links on the parked page reflect words in English and notably, nothing in Chinese. The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefor by the Respondent, the Panel does not find it procedurally efficient to have the Complainants translate the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Complainants have established they have rights in the SANOFI and GENZYME trade marks. The disputed domain name comprises a combination of the said trade marks with the omission of the last letter “e” in the trade mark GENZYME. The Panel is of the view that the Complainants’ SANOFI and GENZYME marks are clearly identifiable in the disputed domain name, despite the intentional misspelling of the mark GENZYME. A domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. (See [WIPO Overview 3.0](#), section 1.9.)

The gTLD “.com” is a technical requirement for domain name registrations and does not have any impact on the issue of the identity or confusing similarity between the disputed domain name and the Complainants’ trade marks in this case. (See [WIPO Overview 3.0](#), section 1.11.1.)

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Panel finds that the Complainants have established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainants’ registrations and extensive use of the SANOFI and GENZYME trade marks long predate the registration date of the disputed domain name. The Complainants did not license nor authorize the Respondent to use the said trade marks in a domain name. Neither is there any evidence that the Respondent is commonly known by the name “Sanofi”, “Genzyme”, “Genzym”, or the disputed domain name. The Respondent’s choice of a combination of both trade marks belonging to the Complainants which are related entities show that the Respondent is well aware of the reputation of both companies and sought by the registration to obtain an unfair commercial gain, with a view to misleadingly divert consumers looking for the Complainants.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain name. The Respondent did not file a Response in the present case to rebut the Complainants’ assertions and evidence. In any event, it is the Panel’s view that it is not plausible that any rights or legitimate interests can be asserted or supported by the Respondent.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

The Panel is persuaded in this case that the Respondent targeted the Complainants' SANOFI and GENZYME trade marks. There is no other reason for the Respondent to have registered the disputed domain name, being a combination of the SANOFI mark and a misspelt version of the GENZYME mark, except for the sole purpose of riding off the reputation and goodwill in, and creating confusion with, the Complainants' well-known trade marks. This is all the more apparent from the fact that the Complainants own and operate the domain name <sanofigenzyme.com>:

"If [...] circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, [...] (iv) website content targeting the complainant's trade mark, e.g., through links to the complainant's competitors, [...] (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, [...]. Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner." (See section 3.1.1 of the [WIPO Overview 3.0.](#))

The Panel finds that there has been bad faith registration and use of the disputed domain name. A summary of the circumstances which support the finding include the following:

- (i) the high degree of distinctiveness and reputation of the Complainants' SANOFI and GENZYME trade marks;
- (ii) the Respondent's likely knowledge of the Complainants' rights in the SANOFI and GENZYME trade marks;
- (iii) the PPC links on the parking page to which the disputed domain name resolves, which are related to the Complainants' goods and/or services provided under the SANOFI and GENZYME trade marks;
- (iv) the Respondent's deliberate typosquatting;
- (v) the failure of the Respondent to submit a Response, or to provide any explanation for registering the disputed domain name; and
- (vi) the implausibility of any good faith use to which the disputed domain name may be put.

The Panel believes that the Respondent fully appreciated the value associated with the SANOFI and GENZYME trade marks, which is why he registered the disputed domain name. The Respondent hoped to draw Internet traffic through typographical errors made by Internet users who may be searching for the Complainants' products or services. The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been satisfied.

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 <sanofigenzym.com> be transferred to the Complainant.

/Francine Tan/

Francine Tan

Sole Panelist

Date: July 12, 2023