

ADMINISTRATIVE PANEL DECISION

Sanofi v. Sanjeev Setia

Case No. D2023-4510

1. The Parties

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

The Respondent is Sanjeev Setia, India.

2. The Domain Name and Registrar

The disputed domain name <sanoficreation.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 2023, 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 November 2, 2023.

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 November 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 27, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on November 30, 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 major multinational pharmaceutical company, with headquarters in Paris, France. The Complainant is present in more than 100 countries.

The Complainant owns various trademark registrations for or containing SANOFI, among which:

- European Union trademark registration for SANOFI no. 010167351, registered on January 7, 2012, in classes 3 and 5;
- United States trademark registration for SANOFI no. 4178199, registered on July 24, 2012 in classes 3, 5, 9, 10, 16, 35, 41, 42 and 44; and
- International trademark registration for SANOFI no. 1094854, registered on August 11, 2011, in classes 3 and 5.

The Complainant owns several domain names containing the mark SANOFI, among which the domain name <sanofi.com>.

The disputed domain name was registered on March 29, 2023.

The disputed domain name resolves to a webpage displaying the following text: “*Sorry, this shop is currently unavailable*”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known trademark SANOFI, despite its combination with the generic and descriptive term “creation”.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent is not commonly known by the disputed domain name; (ii) the Respondent has not been authorized by the Complainant to use the disputed domain name; (iii) the Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services, nor is the Respondent making any legitimate non commercial use of the disputed domain name.

Finally, according to the Complainant, the disputed domain name was registered in bad faith as the Respondent could not ignore the Complainant’s mark given its well-known character, and must have been aware of the risk of deception and confusion that would arise from the registration of the disputed domain name. In such circumstances, the passive holding of the disputed domain name amounts to use in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 domain name registered by the respondent has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name, and that the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here "creation") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

Having reviewed the available record, the Panel finds 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 rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but 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.

In the present case, the Complainant's mark SANOFI has no perceivable meaning and is distinctive. Furthermore, having reviewed the available record, the Panel accepts that the Complainant's mark is well-known. Therefore, the Panel finds it likely that the Respondent was aware of the Complainant's mark at the time of registration of the disputed domain name. The Panel therefore holds that the disputed domain name was registered in bad faith.

As to the requirement of use in bad faith, the Panel notes that the Respondent has not made an active use of the disputed domain name.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

As mentioned above, the Panel finds that the Complainant's mark is both distinctive and well-known. The Respondent failed to submit a response or provide any evidence of actual or contemplated good-faith use. In any case, it is difficult to imagine what legitimate use the Respondent could make of the disputed domain name, given the fact that there is no relationship between the Respondent and the Complainant. If the disputed domain name was connected to an active website, consumers would be likely to mistakenly assume that such website is operated or endorsed by the Complainant, when such is not the case. The Respondent was notified of the UDRP proceedings (as the delivery of the Written Notice by DHL was successful) but it chose to refrain from filing a Response. This corroborates the implausibility of a good faith holding of the disputed domain name by the Respondent.

In view of the above, the Panel is of the view that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 disputed domain name <sanoficreation.com> be cancelled.

/Anne-Virginie La Spada/
Anne-Virginie La Spada
Sole Panelist
Date: December 17, 2023