

## ADMINISTRATIVE PANEL DECISION

Sanofi v. 于青青 (Yu qing qing)

Case No. D2024-1464

### 1. The Parties

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

The Respondent is 于青青 (Yu qing qing), China.

### 2. The Domain Name and Registrar

The disputed domain name <sanofiaventis.xyz> is registered with Alibaba Cloud Computing Ltd.d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 8, 2024. On April 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 9, 2024, 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.

On April 15, 2024, the Center informed the parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 15, 2024, the Respondent requested Chinese to be the language of the proceeding. On April 17, 2024, the Complainant requested English to be the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit formal any response. Accordingly, the Center notified the commencement of panel appointment process on May 13, 2024.

The Center appointed Jonathan Agmon as the sole panelist in this matter on May 22, 2024. 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, Sanofi, is a multinational pharmaceutical company headquartered in Paris, France. The Complainant was formed in 2004 by the merger of Sanofi-Synthélabo and Aventis. It was named Sanofi Aventis after the merger and was subsequently renamed Sanofi in May 2011. The Complainant engages in research and development, manufacturing, and marketing of pharmaceutical products for sale, principally in the prescription market, and also develops over-the-counter medication. It offers a wide range of patented prescription drugs in more than 180 countries on all five continents and employs over 90,000 people. Its net sales in 2022 was over EUR 43 billion.

The Complainant owns various SANOFI AVENTIS trademarks, including the following:

- French trademark registration No. 3309318 for [sanofi aventis](#) registered on September 24, 2004;
- French trademark registration No. 3288019 for SANOFI-AVENTIS, registered on June 4, 2004;
- European Union trademark registration No. 004054193 for [sanofi aventis](#), registered on November 24, 2005;
- European Union trademark registration No. 004025318 for SANOFI-AVENTIS, registered on November 3, 2005;
- International trademark registration No. 849323 for [sanofi aventis](#), registered on February 17, 2005; and
- International trademark registration No. 839358 for SANOFI-AVENTIS, registered on October 1, 2004.

The Complainant and its related entities own and operate various domain names, including the following:

- <sanofi-aventis.com>, registered on March 14, 2004;
- <sanofi-aventis.eu>, registered on March 10, 2006;
- <sanofi-aventis.fr>, registered on December 18, 2006;
- <sanofi-aventis.net>, registered on April 26, 2004;
- <sanofi-aventis.info>, registered on April 26, 2004; and
- <sanofi-aventis.org>, registered on April 26, 2004.

The disputed domain name was registered on March 27, 2024, and resolves to a Dan.com webpage, where it is being offered for sale.

#### 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 identical or confusingly similar to a trademark in which the Complainant has rights. The disputed domain name consists of the Complainant's highly distinctive SANOFI AVENTIS trademark along with the addition of a generic Top-Level Domain ("gTLD"). The addition of the gTLD should be disregarded as it does not serve to distinguish domain names. The Complainant's SANOFI AVENTIS trademark is highly distinctive, has garnered goodwill and was considered well-known in many jurisdictions.

- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Complainant has never licensed or authorized the Respondent to use its trademarks or to register any domain names. There is no relationship between the Complainant and the Respondent. The Respondent is not using the disputed domain name in connection with any bona fide offering of goods or services. The disputed domain name resolves to an inactive parking page, where it is being offered for sale for USD 1,450. Such a use cannot be considered as a bona fide noncommercial use of the disputed domain name.

- The disputed domain name was registered and is being used in bad faith. The SANOFI AVENTIS has no particular meaning and is highly distinctive. The Respondent's name also bears no resemblance to the SANOFI AVENTIS trademark. The Respondent has no prior rights or legitimate interests to justify the use of the Complainant's well-known trademark. Given the fame and distinctive nature of the SANOFI AVENTIS trademark, the Respondent is likely to have actual or constructive knowledge of the Complainant's trademark at the time of registering the disputed domain name. This suggests that the Respondent acted with opportunistic bad faith in registering the disputed domain name. The disputed domain name was registered for the purpose of attracting Internet users to the Respondent's webpage by creating a likelihood of confusion or an impression of association between the SANOFI AVENTIS trademark and the disputed domain name. The disputed domain name resolves to a Dan.com webpage where it is being offered for sale for USD 1,450. This is also a case of passive holding of the disputed domain name, which is an indication of bad faith. This use of the disputed domain name is likely to cause irreparable damage to the Complainant's goodwill as Internet users could believe that the Complainant is no longer on the Internet or that the Complainant has gone out of business.

## **B. Respondent**

The Respondent did not reply to the Complainant's 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. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- The Complainant is an international business primarily operated in English and is therefore unable to communicate in Chinese;
- The disputed domain name comprises an exact reproduction of the SANOFI AVENTIS trademark, along with the gTLD ".xyz";
- The disputed domain name consists of Latin characters instead of Chinese script;
- The Respondent has selected English characters in the disputed domain name, indicating that he is acquainted with the English language;
- If the Complainant were to submit the Complaint in Chinese, the administrative proceeding will be unduly delayed and the Complainant would incur substantial translation expenses; and

- In past UDRP cases involving the Respondent, the panel accepted that the language of proceedings be English.

The Respondent requested that the language of the proceeding be Chinese, claiming that:

- The language of the Registration Agreement for the disputed domain name is Chinese, which indicates that the Respondent is more familiar with the Chinese language;
- Having Chinese be the language of the proceedings can ensure that the Respondent can understand and respond more accurately and effectively, ensuring the fairness of the procedure;
- Chinese is the Respondent's native language and Chinese being the language of proceedings will minimize errors and misunderstandings; and
- The Respondent's cultural and linguistic background is Chinese, which ensures that the Respondent can fully exercise his rights and participate effectively in the administrative process.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

In particular, the Panel notes that the Respondent refused delivery of the documents from the Center, yet responded only to the Center's email regarding the language of the proceedings. The Respondent did not argue that he is not familiar with the English language, rather that he is more familiar with Chinese and that if the proceedings would be in Chinese he can understand and respond more accurately and effectively. This suggests that the Respondent is familiar with the English language but prefers that the proceeding is conducted in Chinese. Be that as it may, the Respondent did not file a response in Chinese or otherwise and chose not to participate in the proceeding beyond his email response to the language of proceeding. Moreover, the Panel notes that the Respondent is offering the disputed domain name for sale in English; that the disputed domain name resolves to a website in English; and the transaction currency requested is in United States Dollars.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

#### **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 3.0](#), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Complainant’s registration of its trademark(s) predates the registration of the disputed domain name. The disputed domain name resolves to a Dan.com webpage where it is being offered for sale for USD 1,450, a sum that likely exceeds the Respondent’s out-of-pocket registration costs. There is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain name in connection with a bona fide offering of goods or services or for a legitimate noncommercial or fair use purpose.

The Panel also finds that the use of the Complainant’s SANOFI AVENTIS trademark in its entirety carries a high risk that the disputed domain name would be perceived by Internet users to be affiliated with the legitimate holder of the trademark, i.e. the Complainant. See [WIPO Overview 3.0](#), section 2.5.1. It has been held by prior UDRP panels that where a domain name consists of a trademark, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The Respondent’s choice of a well-known trademark associated with the Complainant shows a clear intent to mislead unsuspecting Internet users expecting to find the Complainant and instead are directed to an inactive website.

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 Panel notes that the Respondent registered the disputed domain name long after the Complainant registered its SANOFI AVENTIS trademark. Given the distinctiveness of the Complainant’s mark and its goodwill, it is highly unlikely that the Respondent did not know of the Complainant and its SANOFI AVENTIS trademark prior to the registration of the disputed domain name.

Further, the disputed domain name resolves to a Dan.com webpage where it is being offered for sale for USD 1,450, a sum that likely exceeds the Respondent’s out-of-pocket registration costs. This is an indication of bad faith.

The Panel also notes that the Respondent refused delivery of the documents from the Center and draws adverse inferences accordingly.

Considering all the circumstances of this case, 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 <sanofiaventis.xyz> be cancelled.

*/Jonathan Agmon/*

**Jonathan Agmon**

Sole Panelist

Date: June 4, 2024