

ADMINISTRATIVE PANEL DECISION

Sanofi v. 苏永佳 (Su Yong Jia)

Case No. D2024-2622

1. The Parties

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

The Respondent is 苏永佳 (Su Yong Jia), China.

2. The Domain Name and Registrar

The disputed domain name <sanofi.fun> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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. The Center sent an email communication to the Complainant in Chinese and English on June 28, 2024, providing the registrant and contact information disclosed by the Registrar. The Complainant filed an amendment to the Complaint on July 1, 2024.

On June 28, 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 July 2, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 July 8, 2024. In accordance with the Rules, paragraph 5,

the due date for Response was July 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 31, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on August 6, 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 is a French multinational pharmaceutical company which is headquartered in Paris. 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. It has a presence in more than 100 countries on five continents and employs over 100,000 people. Its net sales amount in 2022 was EUR 43 billion.

The Complainant is the owner of numerous SANOFI trade marks worldwide, including the following:

- European Union Trade Mark No. 000596023, registered on February 1, 1999;
- International trade mark registration No. 591490, registered on September 25, 1992, designating China where the Respondent is located; and
- French trademark registration No. 1482708, registered on August 11, 1988.

The Complainant is also the owner of various domain names incorporating the SONAFI trade mark, including <sanofi.com>, registered on October 13, 1995.

The disputed domain name was registered on June 11, 2024, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that:

- (i) The disputed domain name is identical or confusingly similar to the SANOFI trade mark in which the Complainant has rights. The disputed domain name reproduces the Complainant's SANOFI trade mark in its entirety. The Complainant's SANOFI trade mark is highly distinctive. The generic Top-Level Domain ("gTLD") ".fun" is made up of a word that is universally understood to refer to recreation or entertainment. The gTLD does not differentiate the disputed domain name from the Complainant's SANOFI trade mark.
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent's name bears no resemblance to SANOFI. The Complainant is not affiliated with the Respondent, and has never licensed or authorized the Respondent to use its SANOFI trade mark or to register a domain name incorporating its trade marks. The disputed domain resolves to an inactive webpage, which is evidence that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. There is no bona fide offering of goods or services by the Respondent so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy.

(iii) The disputed domain name was registered and is being used in bad faith. The Complainant's SANOFI trade mark is well known and distinctive so the registration of the disputed domain name incorporating the trade mark is opportunistic bad faith by the Respondent. The disputed domain name was clearly registered in an attempt to target the Complainant and its famous trade mark. Given the fame of the SANOFI trade mark, the Respondent ought to have actual or constructive knowledge of the Complainant and its trade mark. The disputed domain name was created for the purpose of attracting Internet traffic to the Respondent's webpage by creating an impression of association between the website to which the disputed domain resolves with the Complainant, notwithstanding the passive holding of the disputed domain as at the time of the filing of the complaint.

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:

- the Complainant is a French multinational company and unable to communicate in the Chinese language;
- the disputed domain name is an exact reproduction of the Complainant's SANOFI trade mark, combined with the gTLD ".fun"; and
- if the Complainant were required to submit the documents in Chinese, the administrative proceeding would be unduly delayed, and the Complainant would incur substantial expenses for translation.

The Respondent did not respond on the issue of the language of the proceeding.

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).

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. The disputed domain name comprises Latin characters and essentially the Complainant's well-known SANOFI trade mark in its entirety, and the gTLD containing the English word, "fun". The Respondent could have opted to respond in the proceeding in the Chinese language but did not. The Panel does not find any merit for delaying the proceeding or burdening the Complainant with the costs stemming from an order for the Complaint to be translated into Chinese.

6.2. Substantive Issues

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark 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. There is no evidence that the Respondent is commonly known by the disputed domain name and that it was licensed or authorized by the Complainant to use the SANOFI trade mark or to register the disputed domain name. The Complainant's use and registration of the SANOFI trade mark long predates the registration date of the disputed domain name.

There was no rebuttal of the Complainant's prima facie case by the Respondent. Furthermore, the Panel considers that the disputed domain name carries a high risk of implied affiliation with the Complainant since it is identical to the Complainant's trade mark. [WIPO Overview 3.0](#), section 2.5.1. Bearing in mind the well-established fame and reputation of the SANOFI trade mark, it would be virtually impossible to envisage any rights or legitimate interests the Respondent might have in the disputed domain name, short of the Respondent having been licensed or authorized by the Complainant, which the Complainant has confirmed is not the case here.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The disputed domain name incorporates the entirety of the Complainant's distinctive and well-established trade mark with no alterations or additions. The SANOFI trade mark has been registered for many years and extensively used by the Complainant. The Panel is persuaded that the Respondent knew of and targeted the Complainant and its SANOFI trade mark at the time it registered the disputed domain name.

The fact that the disputed domain name resolves to an inactive page does not preclude a finding of bad faith use. Panels have found that the non-use of a domain name including a blank page would not prevent a finding of bad faith under the doctrine of passive holding. 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 implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Applying these principles in this case, and noting the identity of the disputed domain name with the Complainant's SANOFI trade mark, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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 <sanofi.fun> be cancelled.

/Francine Tan/

Francine Tan

Sole Panelist

Date: August 14, 2024