

ADMINISTRATIVE PANEL DECISION

Sanofi v. ma li ao, startbanaer
Case No. D2024-3285

1. The Parties

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

The Respondent is ma li ao, startbanaer, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sanofis.xyz> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2024. On August 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 13, 2024, 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 (startbanaer) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 14, 2024, 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 August 19, 2024.

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 August 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2024.

The Center appointed Áron László as the sole panelist in this matter on September 19, 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 headquartered in Paris, France. The Complainant is the fourth largest multinational pharmaceutical company in terms of prescription sales. The Complainant is engaged in the research and development, manufacture and marketing of pharmaceutical products for sale, mainly in the prescription market, and also develops over-the-counter medicines.

The Complainant is present in more than 100 countries on all five continents and employing 100,000 people.

The Complainant is the owner of numerous trademarks including the following (the "Trademark"):

- French trademark SANOFI (word) Reg. No. 96655339, registered on December 11, 1996;
- European Union trademark SANOFI (figurative) Reg. No. 000596023, registered on February 1, 1999;
- United States trademark SANOFI (word) Reg. No. 85396658, registered on July 24, 2012.

The Complainant owns several domain names, including <sanofi.com>, <sanofi.eu>, <sanofi.fr>, <sanofi.us>, <sanofi.net>, <sanofi.ca>, <sanofi.biz>, <sanofi.info>, <sanofi.org>, <sanofi.mobi>, <sanofi.tel> and <sanofi.cn>.

The disputed domain name was registered on August 6, 2024, by the Respondent. The Respondent is an individual/entity with an address in the United States. The disputed domain name does not resolve to an active website.

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 reproduces the SANOFI Trademark in its entirety, which the Trademark in itself has no particular meaning and is therefore highly distinctive. The disputed domain name is a mere imitation of the Complainant's Trademark, namely a deliberate misspelling of the Trademark SANOFI, the difference being limited to the addition of the suffix "s". From a phonetic and typographical point of view, the addition of the letter "s" at the end of the Trademark must be regarded as merely insignificant, since it is not at all different from the Trademark. In fact, the term "sanofis" will be read and understood as the genuine SANOFI Trademark and related domain names or as the plural version of the sign SANOFI. Previous panels have established that the Complainant's Trademark is well known in many jurisdictions.

As regards the second element, the Complainant points out that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has no rights or legitimate interests in using the disputed domain name since the Respondent's name "startbanaer" bears no resemblance to the term "Sanofi". The Complainant reiterates that the term "Sanofi" has no particular meaning and is therefore highly distinctive. The Respondent has no prior rights or legitimate interests justifying the use of the Complainant's well-known Trademark. The Complainant has never licensed or otherwise authorized the Respondent to use the Trademark or to register a domain name containing the Trademark. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, nor is the Respondent using the disputed

domain name in connection with a bona fide offer of goods or services so as to establish a right or legitimate interest in the disputed domain name under paragraph 4(c)(i) of the Policy. The disputed domain name relates to an inactive website.

Regarding the third element, the Complainant contends that numerous previous panels have established bad faith in relation to similar domain names, which are confusingly similar to a complainant's well-known trademark. In *Sanofi v. Bo Li*, WIPO Case No. [D2013-1971](#), involving the Trademark SANOFI, the panel found "that given the widespread fame of the Complainant's SANOFI trademark and a lack of plausible explanation for the choice of incorporating the Complainant's famous trademark in the disputed domain name, the unauthorized use of the term 'sanofi' or a transliteration of 'sanofi' such as 'sainuofei' in the Respondent website onto which the disputed domain name resolves are certainly relevant factors indicating bad faith registration and use". It is obvious that the Respondent has registered the disputed domain name corresponding to the Complainant's Trademark and related domain names in bad faith, as this behaviour cannot be the result of a mere coincidence.

Given the reputation and distinctiveness of the SANOFI Trademark, it is likely that the Respondent had at least constructive notice, if not actual notice, of the existence of the Complainant's Trademark at the time it registered the disputed domain name. This suggests that the Respondent acted with opportunistic bad faith in registering the disputed domain name in order to make an unlawful use of it. The disputed domain name appears to have been registered with a view to creating a likelihood of confusion, or at least an impression of association, between the Trademark and the disputed domain name.

It has been established in many UDRP cases that passive holding may, in appropriate circumstances, fall within the concept of bad faith use of a domain name. The leading case in this regard is *Telstra Corporate Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), in which the panel held that it was not necessary to find that the registrant had taken any affirmative action with respect to the domain name in order to find that the registrant was using the domain name in bad faith. Indeed, in circumstances of the passive holding, this behaviour falls within the concept of "using the domain name in bad faith".

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- 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 has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules.

The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.3.

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.

In accordance with the [WIPO Overview 3.0](#), section 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. In the present case, the addition of the suffix “s” can be regarded as a misspelling of the Trademark. Further, the Panel notes that the suffix “s” is a common plural suffix in English and French.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trademark 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 disputed 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 disputed domain name has not been used, and therefore cannot have been used for a bona fide offering of goods or services. The Respondent’s name does not appear in the disputed domain name and the Respondent is therefore not commonly known by the disputed domain name.

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.

The Panel finds that, given the reputation and distinctiveness of the SANOFI Trademark, it is likely that the Respondent had actual knowledge of the existence of the Complainant's Trademark at the time it registered the disputed domain name. This leads the Panel to the conclusion that the Respondent must have acted in bad faith in registering the disputed domain name in order to make an unlawful use of it. The disputed domain name appears to have been registered with a view to create a likelihood of confusion, or at least an impression of association between the Trademark and the disputed domain name. The addition of "s" at the end of the well-known Trademark may not be noticed by inattentive Internet users and may mislead them into believing that the disputed domain name is associated with the Complainant.

The disputed domain name does not resolve to an active website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's Trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <sanofis.xyz> be transferred to the Complainant.

/Áron László/

Áron László

Sole Panelist

Date: October 3, 2024