

ADMINISTRATIVE PANEL DECISION

Sanofi v. Tina Pullman

Case No. D2024-3657

1. The Parties

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

The Respondent is Tina Pullman, Taiwan Province of China.

2. The Domain Name and Registrar

The disputed domain name <stilnox-tw.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 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 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 of the Complaint, and the proceedings commenced on September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2024.

The Center appointed Peter Kružliak as the sole panelist in this matter on October 24, 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 pharmaceutical company based in France with consolidated net sales of EUR 43 billion in 2022, ranking 4th world's largest multinational pharmaceutical company by prescription sales. The Complainant is settled in more than 100 countries on all five continents employing almost 100,000 people.

The Complainant produces and sells under the trademark STILNOX a drug used for the treatment of insomnia.

The Complainant is the owner of numerous trademark registrations in many jurisdictions of the world containing STILNOX, including the following trademark registrations:

- International trademark registration STILNOX (word), number 485741, registered on May 21, 1984, for class 5 protected in multiple jurisdictions;
- International trademark registration STILNOX (combined), number 661753, registered on September 26, 1996, for class 5 protected in China;
- French trademark STILNOX number 1263152, filed and registered on March 1, 1984, for class 5; and
- German trademark STILNOX number 1070587, filed on May 21, 1984 and registered on November 20, 1984 for class 5.

(the "STILNOX trademark")

The Complainant also registered many domain names containing STILNOX trademark, such as <stilnox.net> and <stilnox.com>.

The Respondent is from Taiwan Province of China. The disputed domain name <stilnox-tw.com> was created on July 20, 2024, and based on available record it resolves to an inactive page.

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 STILNOX trademark regardless of the addition of the geographic acronym "tw" and the generic Top-Level Domain ("gTLD") extension ".com", which do not eliminate the likelihood of confusion with the STILNOX trademark. To the contrary, according to the Complainant, the addition of the geographic acronym "tw" indicating a website allegedly selling the the Complainant's products increases the inherent risk of confusion.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name since:

- the Respondent's name bears no resemblance with the STILNOX trademark, thus Respondent has no prior rights and/or legitimate interests to justify the use of the Complainant's trademarks and domain names;
- neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks, consequently there is no relationship between the Respondent and the Complainant who incorporated the Complainant's trademarks into the disputed domain name without authorization; and
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor it is 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, given that the disputed domain name website is not used legitimately by the Respondent, as it simply refers to an inactive page.

And finally, the Complainant submits that the disputed domain name has been registered and is being used in bad faith arguing that:

- the Respondent does not have any legitimate interest in using the disputed domain name since the name of the Respondent has no resemblance with the word “stilnox”, which has no particular meaning and is therefore highly distinctive, thus that the Respondent acted with opportunistic bad faith in registering the disputed domain name in order to make an illegitimate use of it;
- the disputed domain name has obviously been registered for the purpose of creating a likelihood of confusion - or at least an impression of association - between SANOFI trademarks and domain names and the disputed domain name;
- the STILNOX trademarks are according to the Complainant reputed;
- the disputed domain name resolves to an inactive website and it has been established in many UDRP cases that passive holding falls within the concept of the domain name being used in bad faith; and
- the lack of use of the disputed domain name particularly close to those used by the Complainant is likely to cause irreparable prejudice to its general goodwill because Internet users could be led to believe that the Complainant is not on the Internet or that the Complainant is out of business, which was also upheld by previous UDRP cases as an argument for bad faith on the part of the Respondent.

B. Respondent

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

6. Discussion and Findings

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.

The Complainant has shown rights in respect of the STILNOX trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the STILNOX trademark is reproduced within the disputed domain name and the addition of other terms, such as “tw” in this case, may bear on assessment of the second and third elements, however it 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. The hyphen between the individual words does not prevent a finding of confusing similarity (see for example *L’Oreal v. Tracey Johnson*, WIPO Case No. [D2008-1721](#) and *Atacadão - Distribuição, Comércio E Indústria LTDA. v. seong-chea park*, WIPO Case No. [D2022-4615](#)). Similarly, the gTLD of the disputed domain name is being disregarded in determining identity and confusing similarity. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name <stilnox-tw.com> is confusingly similar to the STILNOX 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 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.

According to the available record the disputed domain name resolves to an inactive page, which cannot be considered according to the Panel as bona fide offering of goods or services considering the circumstances, and the Respondent did not provide any evidence of demonstrable preparations for use of the disputed domain name.

Furthermore, the available record does not show any trademark registrations or earlier relevant rights of the Respondent corresponding to the disputed domain name, nor is the Respondent commonly known by the disputed domain name.

Finally, there is no evidence to suggest that the use of the disputed domain name by the Respondent is legitimate non-commercial or fair use. The STILNOX trademark is included in its entirety in the disputed domain name. The Panel finds that the other term included in the disputed domain name - “tw”- is the Alpha-2 code adopted by the International Organization for Standardization (ISO) for Taiwan, Province of China, thus suggesting that the website connected with the disputed domain name may be addressed to customers of the STILNOX products from this region. Hence, the disputed domain name suggests sponsorship or endorsement by the Complainant, which prevents finding of any legitimate non-commercial or fair use on the part of the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

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 STILNOX trademark is of highly distinctive nature and is not associated with the Respondent in any way. Based on the composition of the disputed domain name it is highly unlikely that the disputed domain name was created without knowledge of the Complainant’s trademark. The Panel further points out to the reasoning contained in Section 6.B. that the disputed domain name suggests sponsorship or endorsement by the Complainant and that the Respondent has not sought to claim, let alone establish, that the Respondent has rights or legitimate interests in the disputed domain name, which supports the finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark. [WIPO Overview 3.0](#), section 3.1.4. Thus, the Panel finds the Respondent has registered the disputed domain name in bad faith.

At the time of filing of the Complaint and the Decision, the disputed domain name resolved to an inactive page. 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 (i) the composition of the disputed domain name, as well as the failure of the Respondent to (a) file a response or (b) provide any evidence of actual or contemplated good-faith use 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 <stilnox-tw.com> be transferred to the Complainant.

/Peter Kružliak/

Peter Kružliak

Sole Panelist

Date: November 7, 2024