

ADMINISTRATIVE PANEL DECISION

Sanofi v. Nate Zhang
Case No. DAI2023-0026

1. The Parties

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

The Respondent is Nate Zhang, China.

2. The Domain Name and Registrar

The disputed domain name <sanofi.ai> is registered with Zenaida.cate.ai (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 2023, 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 for the disputed domain name.

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 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on October 12, 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 French multinational company headquartered in Paris (France), established in more than 100 countries and employing 100,000 people, with consolidated net sales of EUR 37.7 billion in 2021, EUR 36.04 billion in 2020, and EUR 34.46 billion in 2018.

The Complainant engages in research and development, manufacturing and marketing of pharmaceutical products for sale, principally in the prescription market, but it also develops over-the-counter medications.

The Complainant holds registrations for the trademark SANOFI in various jurisdictions, including the following:

- French trademark SANOFI, registered under No. 1482708 on August 11, 1988;
- French trademark SANOFI, registered under No. 96655339 on January 17, 1997;
- European Union trademark SANOFI, registered under No. 000596023 on February 1, 1999;
- European Union trademark SANOFI, registered under No. 004182325 on February 9, 2006;
- United States of America trademark SANOFI registered under No. 85396658 on July 24, 2012; and
- International trademark for SANOFI & Design, registered under No. 591490 on September 25, 1992, also covering China where the Respondent is purportedly based.

The Complainant also owns and operates several domain names which contain the SANOFI mark in entirety, such as <sanofi.com> (registered on October 13, 1995), <sanofi.eu> (registered on March 12, 2006), <sanofi.fr> (registered on October 10, 2006), and <sanofi.cn> (registered on April 28, 2004).

The disputed domain name was created on December 17, 2017. The evidence in the Complaint is that the disputed domain name resolves to an inactive page which states, "This website is inaccessible".

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

The disputed domain name is confusingly similar to the Complainant's SANOFI mark. In this regard, the Complainant notes that the disputed domain name entirely incorporates the SANOFI mark, which is distinctive and well-known internationally and firmly associated with the Complainant, as recognized by previous UDRP panel decisions (including *Sanofi 诉 孙启峰 (Sun Qi Feng) 案件编号*, WIPO Case No. [D2021-2066](#); *Sanofi v. Domain Admin, <Whoisprotection.cc> / Jose Flora, , Waeco mart ltd*, WIPO Case No. [D2021-1857](#); *Sanofi v. Aamir Hitawala* WIPO Case No. [D2021-1781](#); *Sanofi v. Yansheng zhang, GNAME.COMPTE. LTD*, WIPO Case No. [D2021-1751](#); *Sanofi v. Contact Privacy Inc. Customer / Mike Willis, Sanofi Pasteur*, WIPO Case No. [D2021-1320](#); and *Sanofi v. li yue rong (李玥蓉)*, WIPO Case No. [D2021-0649](#)).

The Respondent has no rights or legitimate interests in the disputed domain name. In this connection, the Complainant submits that the Respondent: (i) has no relation whatsoever with the Complainant and is not authorized or licensed to use the SANOFI trademark, and (ii) is not making a legitimate noncommercial or fair use of the disputed domain name, nor is he using the disputed domain name in connection with a *bona fide* offering of goods and services. The disputed domain name resolves to an inactive website.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademark is highly distinctive and well known, which can be an inference of bad faith as the Respondent must have been aware of the Complainant's trademark. Passive holding of a domain name, which is the case here, demonstrates bad faith.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

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

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark SANOFI based on the evidence submitted in the Complaint.

The disputed domain name entirely incorporates the Complainant's mark and this is sufficient to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, <Domainsbyproxy.com> / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); and *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

The addition of the country code Top-Level Domain ("ccTLD") ".ai" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test (see section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the globally registered and well-known SANOFI mark, (b) the Respondent has not been authorized to use the Complainant's trademark in any way, and (c) the disputed domain name does not resolve to an active website.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests to the Respondent. Moreover, the disputed domain name is confusingly similar to the Complainant's SANOFI trademark and carries a high risk of implied affiliation with the Complainant. Such risk for implied affiliation cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant.

The Complainant's SANOFI trademark is well known internationally. Given the reputation of the Complainant's trademark - registration and use of which precede by far the registration of the disputed domain name - it is not conceivable that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2). Prior UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

As to bad faith use, the evidence submitted with the Complaint shows that the disputed domain name does not point to an active website. The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, "While 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 implausibility of any good faith use to which the domain name may be put." (See section 3.3 of the [WIPO Overview 3.0](#); and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith. Specifically: (i) the Complainant's trademark is distinctive and well established; (ii) the Respondent has failed to submit any claims or evidence of good-faith use; (iii) the absence of any relationship between the Respondent and the Complainant; and, (iv) given the confusing similarity to the Complainant's trademark, there is no conceivable good faith use to which the disputed domain name could be put by the Respondent, that would not result in creating a misleading impression of association with the Complainant.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

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.ai>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: October 26, 2023