

ADMINISTRATIVE PANEL DECISION

Sanofi and Sanofi-Aventis Deutschland GmbH v. YangZhiChao Case No. D2022-1240

1. The Parties

The Complainants are Sanofi and Sanofi-Aventis Deutschland GmbH (collectively “the Complainant”), France, represented by Selarl Marchais & Associés, France.

The Respondent is YangZhiChao, China.

2. The Domain Name and Registrar

The disputed domain name <dulcola.com> is registered with 22net, Inc., (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 7, 2022. On April 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 11, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 2022, 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 in English on April 12, 2022.

On April 11, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on April 12, 2022. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on April 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 11, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on May 17, 2022. 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-Aventis Deutschland GmbH, is a leading player in the pharmaceuticals industry.

The Complainant has an extensive global portfolio of trade marks containing the term "dulcolax", including the following:

- European Union Trade Mark Registration for DULCOLAX No. 002382059 in Class 5, registered on November 29, 2002; and

- International Trade Mark registration for DULCOLAX No. 165781 in Classes 1 and 5, registered on December 10, 1952, designating among others Switzerland, Australia, Island, Israel, Albania, Morocco, Egypt, Croatia, Vietnam, and Ukraine.

The Complainant owns the domain names <dulcolax.com> and <dulcolax.info>.

The disputed domain name was registered on March 17, 2022.

According to screenshots provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a parking page with pay-per-click links, actively featuring the DULCOLAX products. At the time of drafting of this Decision, the disputed domain name continued to resolve to the same parking page with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the DULCOLAX trade marks and that it is a leading player in its fields of business.

The Complainant further asserts that the disputed domain name is identical or confusingly similar to the Complainant's DULCOLAX trade marks, and the removal of the alphabet "x" is insufficient to substantially mitigate the likelihood of confusion between the Complainant's DULCOLAX trade marks.

The Complainant also asserts that it has not authorized the Respondent to use the DULCOLAX mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that there is no evidence suggesting that the Respondent has any connection to the DULCOLAX mark in any way, and that there is no plausible good faith reason for the Respondent to have registered the disputed domain name, especially after considering the relevant circumstances. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should in principle be Chinese.

However, the Complainant filed the Complaint in English, and requested that English be the language of the proceeding, asserting *inter alia* that:

- The disputed domain name is registered in Latin characters rather than Chinese script; and
- The translation of the Complaint would only unduly burden the Complainant and unnecessarily delay the proceeding.

The Respondent was notified in both Chinese and English of the language of the proceeding and the Complaint, and the Respondent did not comment on the language of the proceeding or submit any response.

After considering the relevant circumstances, the Panel determined that the language of the proceeding shall be English, and the Panel has issued this decision in English. The Panel further finds that such determination would not cause any prejudice to either Party and would ensure that the proceeding takes place with due expedition.

B. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the DULCOLAX trade marks in many territories around the world.

Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers that the disputed domain name is an obvious misspelling of the disputed domain name as it omits the last letter "x" but is otherwise identical to the Complainant's trade mark.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the DULCOLAX trade marks and in demonstrating that the disputed domain name is identical or confusingly similar to its marks.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the complainant is required to establish a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made out, the respondent bears the burden of producing evidence in support of its rights or legitimate

interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Thus, the Complainant has established its *prima facie* case with satisfactory evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant’s *prima facie* showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

At the time of drafting of this Decision, the disputed domain name resolved to a parking page with pay-per-click links, prominently featuring the Petitioner’s DULCOLAX products.

Therefore, there is no evidence adduced to show that the Respondent, prior to the notice of the dispute, has used or has demonstrated his preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the DULCOLAX trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

As mentioned above, the disputed domain name consists of an obvious typosquatting variation of the Complainant's distinctive trade mark.

The Respondent has provided no evidence to justify its choice of the term "dulcola" in the disputed domain name. In light of the foregoing, it would be unreasonable to conclude that the Respondent – at the time of the registration of the disputed domain name – was unaware of the Complainant's trade mark.

The Complainant's registered trade mark rights in DULCOLAX for its products and services predate the registration date of the disputed domain name by seven decades. A simple online search (e.g., via Google and Baidu) for the term "dulcola" would have revealed that it is a world-renowned brand.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

The disputed domain name now resolves to a pay-per-click parking website that introduces the Complainant's businesses. Therefore, the Respondent is intentionally attempted to attract Internet users to his website or other online locations, by creating a likelihood of confusion with the Complainant's mark. Such use may also disrupt the Complainant's business.

The Complainant further asserts that the Respondent has been involved in many UDRP proceedings, for example, *Utilities Employees Credit Union v. 杨智超 (Yang Zhi Chao)*, WIPO Case No. [D2021-3096](#) and *W.W. Grainger, Inc. v. 杨智超 (Yang Zhi Chao)*, WIPO Case No. [D2021-2198](#). This clearly demonstrates a systematic behavior of registering reputable trademarks in domain names by the Respondent, which is further evidence of bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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, <dulcola.com>, be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: May 30, 2022