

ADMINISTRATIVE PANEL DECISION

Sanofi v. Privacy service provided by Withheld for Privacy ehf/ SANOFI INDIA
Case No. D2022-2140

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / SANOFI INDIA, India.

2. The Domain Name and Registrar

The disputed domain name <sanofi-india.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2022. On June 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 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 June 15, 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 on June 15, 2022.

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 June 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 12, 2022.

The Center appointed Masato Dogauchi as the sole panelist in this matter on July 19, 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

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a French multinational pharmaceutical company ranking fourth in the world in the pharmaceutical industry.

The Complainant owns a large portfolio of SANOFI trademarks in relation to various goods such as follows:

- French Registration No. 3831592, registered on May 16, 2011;
- European Union Registration No. 010167351, registered on January 7, 2012;
- International Registration No. 1091805, registered on August 18, 2011.

The Complainant also owns many domain names, including the word “sanofi” such as follows:

- <sanofi.com>, registered on October 13, 1995;
- <sanofi.eu>, registered on March 12, 2006.

The disputed domain name was registered on May 3, 2022, resolving to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the disputed domain name reproduces SANOFI trademarks which, as themselves, do not have any particular meaning and are therefore highly distinctive. The reproduction of the Complainant's trademarks as the dominant part of the disputed domain name is confusingly similar to the Complainant's SANOFI trademarks, regardless of the adjunction of the geographical term “-india” and the gTLD extension. Hence, the Complainant asserts that the disputed domain name is substantially and confusingly similar to the Complainant's registered trademarks.

Second, the Respondent has neither prior right nor legitimate interest to justify the use of the already well-known Complainant's trademarks. In this respect, the Complainant has never licensed or otherwise authorized the Respondent to use the Complainant's trademarks or to register any domain name including the trademarks. In addition, the Respondent 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 or services. Hence, the Complainant asserts that the Respondent has no rights and legitimate interest in the disputed domain name.

Third, the Respondent registered in bad faith the disputed domain name corresponding to the Complainant's trademarks, as this behavior can in no way be the result of a mere coincidence. The Respondent does not have any legitimate interest in using the disputed domain name since its name does not bear any resemblance with the word SANOFI which has no meaning and is therefore highly distinctive. Furthermore, the WIPO panel decisions constantly acknowledge that the well-known status of a complainant's trademarks is, in itself, indicative of bad faith registration and use. Hence, the Complainant asserts that the disputed domain name has registered the domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, 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;
- (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.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has the right in the SANOFI trademark.

The disputed domain name includes the Complainant's SANOFI trademark. Such inclusion is by itself enough to consider the disputed domain name confusingly similar to the Complainant's SANOFI trademark. The addition of the term "-India" in the disputed domain name does not prevent a finding of confusing similarity. Further, according to the well-established consensus in prior UDRP decisions, the gTLD ".com" contained in the disputed domain name is typically irrelevant in the determination of the confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

There is no evidence that shows the Respondent is commonly known by the name "sanofi" or "sanofi-india," or that the Respondent is affiliated with the Complainant or authorized or licensed to use the Complainant's trademark.

The disputed domain name resolves to an inactive page. This suggests that the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or for any legitimate noncommercial or fair use.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

The Complainant is a large company producing pharmaceutical products and its SANOFI trademark is well known worldwide. Therefore, it is highly unlikely that the Respondent would not have known of the Complainant's right in the trademark at the time of registration of the disputed domain name. In addition, nothing in the disputed domain name bears any reasonable relevance to the Respondent, and there can be found no reasonable possibility of fortuity in the Respondent's innocent registration of the disputed domain name.

The disputed domain name resolves to an inactive page. This suggests that the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or for any legitimate noncommercial or fair use. It is well-accepted that non-use (or passive holding) would not prevent a finding of bad faith, especially as here where there is no good faith use contemplated.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith; there is no reason it would have been registered except for invoking the Complainant's mark. The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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-india.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: August 2, 2022