

ADMINISTRATIVE PANEL DECISION

Sanofi v. Kevin Polatava

Case No. D2024-3664

1. The Parties

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

The Respondent is Kevin Polatava, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <sanofi-medical.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 September 10, 2024. On September 11, 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 disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 September 12, 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 September 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 7, 2024.

The Center appointed Gill Mansfield as the sole panelist in this matter on October 14, 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, which employs 100,000 people worldwide and is located in more than 100 countries across all five continents. It engages in the research and development, manufacturing and marketing of pharmaceutical products for sale principally in the prescription medication market, and also develops over-the-counter medication. It offers a wide range of patented prescription drugs to treat patients with serious diseases across multiple therapeutic areas. The company was formed as Sanofi-Aventis in 2004 (following a corporate merger) and has been known as Sanofi since May 2011. It had consolidated net sales of EUR 43 billion in 2022 and invested EUR 6.7 billion in research and development in 2022. Its research and development portfolio includes 84 projects which are in clinical development.

It holds an international portfolio of SANOFI trademarks, including inter alia the following:

- French trademark registration number 96655339 for SANOFI (word mark) registered on December 11, 1996 in classes 1, 3, 5, 9, 10, 35, 40 and 42.
- French trademark registration number 1482708 for SANOFI (word mark) registered on August 11, 1988 in classes 1, 3, 4, 5, 10, 16, 25, 28 and 31.
- European Union trademark registration number 004182325 for SANOFI (word mark) registered on February 9, 2006 in classes 1, 9, 10, 16, 38, 41, 42 and 44.

The Complainant also owns a portfolio of "sanofi" domain names including inter alia <sanofi.com> registered on October 13, 1995, <sanofi.eu> registered on March 12, 2006 and <sanofi.fr> registered on October 10, 2006.

The disputed domain name was registered on September 5, 2024 and at the time of the Complaint resolved to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a cancellation of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant points to an international portfolio of trademark registrations and domain name registrations for SANOFI which pre-date the registration of the disputed domain name. It refers to the fact that the disputed domain name reproduces the SANOFI trademark in full, and contends that as the word "sanofi" itself has no particular meaning it is highly distinctive. It points out that the disputed domain name is an exact reproduction of the Complainant's trademark with the addition of "-medical", which it describes as a highly descriptive term particularly given the Complainant's activities in the pharmaceutical / medical field. It contends that not only is the addition of this term insufficient to prevent confusing similarity, it actually suggests to Internet users that the disputed domain name is related to the Complainant and its activities.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It re-iterates that the word SANOFI has no particular meaning and is therefore highly distinctive. The Complainant states that it never licensed or otherwise authorized the Respondent to use its trademarks or register any domain name including the SANOFI trademark. Further, that there is no relationship between the Complainant and the Respondent, and that the Respondent has modified the Complainant's trademark and incorporated it into the disputed domain name without the Complainant's authorization for its own purposes. The Complainant states that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name or using it in connection with a bona fide offering of goods or services, so as to confer rights under paragraph 4(c)(i) of the Policy. In support of this contention the Complainant points out that the disputed domain name resolves to an inactive website.

Finally, the Complainant contends that the domain name was registered and is being used in bad faith. The Complainant states that the SANOFI trademark is well-established, famous and distinctive in nature. As such the Respondent is likely to have had, at least constructive, if not actual notice, as to the existence of the Complainant's mark at the time the disputed domain name was registered. The Complainant argues that disputed domain name was registered for the purpose of attracting Internet users and creating a likelihood of confusion, or at least the impression of association, between the SANOFI trademark and the disputed domain name. In respect of the use of the disputed domain name, the Complainant, noting that the disputed domain name resolves to an inactive website, refers to the UDRP cases relating to the doctrine of "passive holding" in support of its contention that the actions of the Respondent constitute bad faith under the terms of the Policy.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here the addition of "-medical") may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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.

In particular, the Respondent is not licensed or authorized by the Complainant to use or to register its trademark, or to register any domain name incorporating the Complainant’s trademark. There is no relationship between the Complainant and the Respondent.

There is no evidence that the Respondent is commonly known by the disputed domain name. In this regard, the Panel notes both the Complainant’s evidence that the word “sanofi” has no meaning in itself, and also the name of the Respondent on the available record (as provided by the Registrar). There is also no evidence of use, or demonstrable preparations to use the disputed domain name for a bona fide offering of goods or services, nor is there any evidence of any legitimate noncommercial or fair use of the disputed domain name (on the contrary the disputed domain name resolves an inactive website).

Moreover, the construction of the disputed domain name itself, comprising of the Complainant’s registered trademark with the addition of “-medical”, is such to carry a risk of implied affiliation that cannot constitute fair use.

According to paragraph 14(b) of the Rules, the Panel may draw from the lack of response of the Respondent such inferences as it considers appropriate. The Panel is of the view that the lack of response from the Respondent further corroborates the absence of any rights or legitimate interests of the Respondent in 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) 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.

In the present case, the Panel notes that the disputed domain name was registered over 35 years after the first registration of the Complainant's trademark. Having reviewed the available record, the Panel finds that the evidence shows that the Complainant, and the Complainant's trademarks, are widely-known and have an international reputation. The Panel also finds that the longstanding use of the SANOFI trademark combined with its global reputation and recognition, means that it is highly implausible that the Respondent was unaware of the Complainant's trademark when registering the disputed domain name.

Further, the Panel also notes the nature of the disputed domain name, which comprises the Complainant's trademark with the addition of the descriptive English language term "-medical" (which means of, or relating to, medicine or the practice of medicine). The disputed domain name therefore directly corresponds to the Complainant's recognized field of business activity.

The record shows that the disputed domain name does not resolve to an active website.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 or 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.

Given the reputation in the Complainant's trademark, the nature of the disputed domain name (combining the distinctive and widely-known registered trademark of the Complainant with a descriptive term that corresponds to the Complainant's field of business activity) and the failure of the Respondent to submit a response to the Complaint or provide any explanation for the choice of the disputed domain name or any evidence of actual or proposed good faith use, the Panel finds that the disputed domain name was registered in bad faith.

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 <sanofi-medical.com> be cancelled.

/Gill Mansfield/

Gill Mansfield

Sole Panelist

Date: October 28, 2024