



association des praticiens du droit des marques et des modèles

Flash APRAM n° 376 – Procédure UDRP et liberté d’expression : <sanofi.sucks>, ça craint !

Centre d’arbitrage et de médiation de l’OMPI, Panel Administratif, 11 février 2021, *Sanofi / Privacy Hero Inc./Honey Salt Ltd, pat honey salt, D2020-2836*

Chers Amis,

Nous n’avons que rarement l’occasion de communiquer sur des décisions rendues par le Centre d’arbitrage et de médiation de l’OMPI en matière de procédures UDRP.

La décision récente portant sur le nom de domaine <sanofi.sucks> mérite une attention particulière puisqu’elle fait écho à notre dernier Flash APRAM n° 375 confrontant un droit de propriété intellectuelle et la sacro-sainte liberté d’expression.

En l’espèce, le nom de domaine litigieux pointait vers une plateforme à destination des utilisateurs pour leur permettre d’exercer leur liberté d’expression et en particulier, d’engager des discussions actives et de porter des critiques sur des sujets variés.

Outre la reproduction évidente de sa marque de renommée SANOFI, la requérante estimait que le site concerné contenait des informations dénigrantes et invérifiables sur ses activités, tirant un profit indu de sa renommée et ternissant son image, ce qui excluait tout intérêt légitime à détenir le nom de domaine et caractérisait une mauvaise foi évidente du réservataire.

Le défendeur se présentait comme une organisation à but non lucratif fournissant un espace ouvert au public pour exprimer librement son avis sur des sociétés, sans volonté de créer une quelconque confusion avec les activités de la requérante. En effet, l’emploi des marques SANOFI était, selon le défendeur, nécessaire à la désignation de ses propres activités et pour « *dire au monde que ça craint !* ».

Sur ces faits, le Panel relève que le site Internet ne contient aucune critique du défendeur lui-même envers la requérante mais des posts anonymes et non datés, laissant penser qu’ils sont générés automatiquement. Le Panel note également que l’inclusion de liens vers des sites de critiques similaires d’autres marques semble avoir pour unique but d’accroître leur trafic, ainsi que leur valeur commerciale en vue de leur revente potentielle.

Le point central de cette décision réside sans doute dans la motivation du Panel qui limite l’exercice de la liberté d’expression confrontée à un droit de marque en retenant que « même un droit général à la critique légitime ne s’étend pas nécessairement à l’enregistrement ou à l’utilisation d’un nom de domaine identique à une marque (comme <[marque].TLD>) ; même lorsqu’un tel nom de domaine est utilisé à travers l’exercice d’une vraie liberté d’expression non commerciale, les panels ont tendance à considérer que cela crée un risque de confusion inadmissible de l’utilisateur par usurpation d’identité ».

Au final, la décision du Panel permettra d’adresser un message clair au défendeur, et, au-delà, à ceux qui utiliseraient un nom de domaine pour assouvir leur seule soif de dénigrer : le nom de domaine <sanofi.sucks>, ça craint !

Equipe FLASH
Tanguy de Haan – Stève Félix – Charlotte Myers

ADMINISTRATIVE PANEL DECISION

Sanofi v. Privacy Hero Inc. / Honey Salt ltd, pat honey salt
Case No. D2020-2836

1. The Parties

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

The Respondent is Privacy Hero Inc., Turks and Caicos Islands / Honey Salt ltd, pat honey salt, Turks and Caicos Islands, represented by Orrick, Herrington & Sutcliffe LLP, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <sanofi.sucks> is registered with Rebel Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 27, 2020. On October 27, 2020, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 2020, 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 November 3, 2020 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 November 4, 2020.

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 November 16, 2020. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2020. Further to an extension request submitted by the Respondent on December 1, 2020, the due date for Response was extended until December 10, 2020. The Response was filed with the Center on December 10, 2020. On December 24, 2020, the Complainant filed a supplemental filing, following which the Respondent also submitted a supplemental filing on December 28, 2020.

The Center appointed Assen Alexiev, Jonathan Agmon, and Douglas M. Isenberg as panelists in this matter on January 8, 2021. The Panel finds that it was properly constituted. Each member of 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.

The Panel decided not to accept the unsolicited supplemental filings of the Parties. As discussed in section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), neither of them has explained why it was unable to provide the information contained therein in its complaint or response, such as owing to some exceptional circumstance, and the supplemental filings do not in any event appear to add any substantial new information or evidence to the case.

4. Factual Background

The Complainant is a French multinational pharmaceutical company headquartered in Paris. It was formed as Sanofi-Aventis in 2004 by the merger of Aventis and Sanofi-Synthélabo, and changed its name to Sanofi in 2011. The Complainant has operations in more than 100 countries and employs 100,000 people, and its consolidated net sales in 2018 amounted to EUR 34.46 billion.

The Complainant is the owner of the following trademark registrations for “SANOFI” (the “SANOFI trademark”):

- the French trademark SANOFI with registration No.1482708, registered on August 11, 1988 for goods and services in International Classes 1, 3, 4, 5, 10, 16, 25, 28, and 31;
- the European Union trademark SANOFI with registration No.000596023, registered on February 1, 1999 for goods in International Classes 3 and 5;
- the International trademark SANOFI with registration No.674936, registered on June 11, 1997 for goods in International Classes 3 and 5; and
- the United States trademark SANOFI with registration No.4178199, registered on July 24, 2012 for goods and services in International Classes 3, 5, 9, 10, 16, 35, 41, 42, and 44.

The Complainant is also the owner of the domain names <sanofi.com>, registered on October 13, 1995; <sanofi.eu>, registered on March 12, 2006; <sanofi.net>, registered on May 16, 2003; and <sanofi.org>, registered on July 12, 2001.

The disputed domain name was registered on October 15, 2020. It resolves to a website containing information and comments about the Complainant, as well as links to other webpages with similar content about third parties.

5. Parties’ Contentions

A. Complainant

The Complainant submits that the SANOFI trademark has no particular meaning and is highly distinctive, and the disputed domain name is confusingly similar to it because it reproduces it entirely, and the “.sucks generic Top-Level Domain (“gTLD”) section of the disputed domain name should be disregarded as it does not serve to distinguish domain names.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, as its name does not resemble “Sanofi” and it has no prior rights or a legitimate interest to justify the use of the already well-known and worldwide SANOFI trademark of the Complainant, which was registered all over the world prior to the registration of the disputed domain name. The Complainant points out that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and is not using it in connection with a *bona fide* offering of goods or services. Rather, the disputed domain name resolves to what appears to be a blog reproducing the SANOFI trademark and logo and displaying official information regarding the Complainant. However, the website makes a fake and misleading presentation of the Complainant’s true activities, as it contains unverifiable fake citations which disparage the Complainant and tarnish its image. According to the Complainant, the Respondent uses this website to attempt to justify the registration of the disputed domain name and to take unfair advantage of the Complainant’s high reputation by falsely suggesting that the Respondent is somehow affiliated or otherwise connected to the Complainant and thus attracting Internet users to its website for financial gain, which does not constitute a “legitimate” or “fair” use under the Policy.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent’s behavior was not a coincidence, as its name does not resemble “Sanofi”, and the Respondent has no prior right nor legitimate interest to justify the registration or use of the well-known SANOFI trademark of the Complainant. Given the famous and distinctive nature of this trademark, the Respondent is likely to have had notice as to its existence when it registered the disputed domain name, and to have acted with opportunistic bad faith in registering it with the aim to use it to illegitimately attract for financial gain Internet users searching for official information about the Complainant or for its pharmaceutical products to the Respondent’s website by creating a likelihood of confusion between the SANOFI trademark and the disputed domain name. The Complainant claims that the disputed domain name resolves to a website containing fake and unverifiable comments about the Complainant whose purpose is to justify the registration of the disputed domain name and to take unfair advantage of the Complainant’s high reputation. According to the Complainant, this does not constitute a “legitimate” or “fair” use of the disputed domain name under the Policy.

B. Respondent

The Respondent states that it was formed on or around February 12, 2020 to register and hold domain names for the benefit of a non-profit organization, Everything.sucks Inc., which provides an open forum for the public to discuss complaints about anything with which they might find fault. Everything.sucks Inc. has created a platform for users to exercise their free speech rights to engage in active discussion and criticism related to a wide variety of topics. Users may create Wiki pages on this platform, devoted to commentary on and criticism of a particular subject. After a user creates such a Wiki page, Everything.sucks may register a domain name using the topic of criticism as the second level domain at the “.sucks” gTLD to direct users who wish to engage in criticism of that topic to the relevant Wiki page.

The Respondent submits that it chose the disputed domain name to communicate the nature of its website as a forum for engaging in criticism of the Complainant’s business and practices. On or about October 15, 2020, the Respondent registered the disputed domain name and caused it to resolve to a corresponding Wiki page about the Complainant as a space for free discussion and criticism of that company. The Respondent explains that the disputed domain name uses a typical format for websites critiquing a company’s practices, describing the nature of the associated website by combining the Complainant’s company name with the

“.sucks” gTLD. The Respondent states that it has consistently used this format for registered criticism websites since the “.sucks” Registry was first created to allow people to “*Tell the world WHAT.sucks.*” The Respondent notes that the Wiki page for the Complainant contains a prominent yellow speech bubble in the upper left corner stating “*Sanofi Sucks*” right above the tagline “*TELL THE WORLD!*”, and displays users’ criticisms of the Complainant, including criticisms of its customer service and treatment of employees, and does not resemble the Complainant’s own website. According to the Respondent, no one encountering its website would conclude that it is owned by or affiliated with the Complainant, which attempts to use this proceeding to prevent legitimate criticism of its business.

The Respondent maintains that the disputed domain name is not identical or confusingly similar to a trademark in which the Complainant has rights. According to it, the “.sucks” gTLD is not like other generic TLDs, and its pejorative nature renders the disputed domain name as a whole nonidentical and prevents confusion, and the inclusion of “.sucks” in the disputed domain name makes clear that the associated website is not affiliated with the Complainant, but instead contains criticism of it and of its business. The Respondent maintains that “confusingly similar” under the Policy means that by reason of its similarity with a trademark, a domain name is likely to lead to a substantial level of confusion among Internet users that it belongs to the trademark owner or is licensed by it. The Complainant has however put forward no evidence that the disputed domain name is likely to lead to a substantial level of confusion, and no reasonable website visitor would think that the Complainant sponsored or was affiliated with a website at the disputed domain name which itself contains negative feedback.

The Respondent submits that it has rights or legitimate interests in the disputed domain name, because it uses it to host a criticism website allowing independent users to exercise their free speech rights to post genuine criticism of the Complainant’s business, and users have done so by posting pertinent employee and customer commentary and criticism of the Complainant. The Respondent denies that it has had an intent to misleadingly divert consumers or to tarnish the Complainant’s trademark. Using a trademark for purposes of criticism and commentary is noncommercial fair use. Freedom of speech and freedom of expression are well established rights under the First Amendment to the United States Constitution and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Final Report of the WIPO Internet Domain Name Process issued in 1999 recognized that domain name registrations that are justified by legitimate free speech rights would not be considered to be abusive. Incorporating a company’s trademark in a domain name that indicates that it is critical of the company in order to identify it for the purpose of operating a criticizing website is generally regarded as fair use, and the Complainant cannot use its trademark as a shield against contrary and critical views when such views are legitimately expressed without an intention for commercial gain. A Respondent may have a legitimate interest in using a third-party trademark without authorization from the trademark owner as part of a domain name which comprises the trademark plus a derogatory term, provided that the domain name is made for a criticism site and that its use is *prima facie* noncommercial, genuinely fair, and not misleading or false. The Complainant mischaracterizes the Respondent’s website as a “mere blog,” but the amount or quality of the criticism is irrelevant, and the only question is whether it is criticism or parody rather than free-riding on another’s trademark.

According to the Respondent, the Complainant claims without any factual support that the Respondent is trying to make Internet users believe that the Respondent is somehow linked with the Complainant, but does not prove that the disputed domain name misleadingly diverts consumers, and on arriving at the Respondent’s website, no visitor could be under an illusion that the website was the Complainant’s website or was endorsed by the Complainant.

The Respondent denies that the criticisms posted on the disputed domain name are fake and disparage the Complainant and tarnishes its image. According to it, criticism is not the equivalent of tarnishment, and the fact that the Respondent’s website primarily hosts negative criticism does not mean that the Respondent intended to tarnish the Complainant’s trademark. The Respondent maintains that it has never used the

disputed domain name to intentionally misdirect customers looking for the Complainant's services, and has never intended to infringe the Complainant's rights.

The Respondent denies that it has registered and used the disputed domain name in bad faith. It states that the Complainant's claim that the Respondent does not have any legitimate interests in using the disputed domain name because the Respondent's name is not connected to it completely ignores the Respondent's legitimate purpose to provide an open forum for the free exchange of commentary and criticism. It maintains that the use of the Complainant's trademark to direct visitors to a website that provides commentary, criticism and review of the Complainant's products is a legitimate, fair use, and the use of the term "sucks" in the disputed domain name and on the website make it clear that they are not associated with the Complainant. Allowing brand owners to claim bad faith merely because the registrant of a <BRAND.sucks> domain name is not associated with that BRAND would in the Respondent's view undermine the primary purpose of the ".sucks" gTLD, which was created in accordance with ICANN's rules and regulations.

Finally, the Respondent denies that it has registered the disputed domain name to disrupt the Complainant's business through the attraction of Internet users to its website for commercial gain, and points out that it is not a competitor of the Complainant.

6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence and has established its rights in the SANOFI trademark.

As discussed in section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), the applicable TLD in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to "new gTLDs"); the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment of the first element.

The disputed domain name incorporates the SANOFI trademark entirely and merely adds to it the generic ".sucks" gTLD. The Panel does not find this addition to preclude a finding of confusing similarity between the disputed domain name and the SANOFI trademark for the purposes of the Policy, and is prepared to follow the approach described in sections 1.11 and 1.13 of the WIPO Overview 3.0, and address the merits of the case under the second and third elements.¹

¹ As further discussed in section 1.13 of the WIPO Overview 3.0, domain names consisting of a trademark and a negative or pejorative term are considered confusingly similar to the complainant's trademark for the purpose of satisfying its standing under the first element. The merits of such cases, in particular as to any potential fair use, are typically decided under the second and third elements. This section of the WIPO Overview 3.0 reflects practice involving domain names in the format <[trademark][negative term].TLD>. In recent cases involving <[trademark].sucks> domain names, some of them involving the same Respondent, Panels have found the respective domain names as either identical or confusingly similar to the trademarks of the complainants. See *Naos vs. Honey Salt Ltd.*, CAC Case No.103142, for the domain name <bioderma.sucks>, *Boehringer Ingelheim Pharma GmbH & Co. KG vs. Honey Salt Ltd.*, CAC Case No.103141, for

Therefore, the Panel finds that the disputed domain name is confusingly similar to the SANOFI trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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. See section 2.1 of the WIPO Overview 3.0.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, stating that the Respondent cannot justify the use of the well-known SANOFI trademark of the Complainant, and is not making a legitimate noncommercial or fair use of the disputed domain name. Rather, it claims that the disputed domain name resolves to a blog containing a misleading presentation of the Complainant’s true activities and unverifiable fake citations. According to the Complainant, the Respondent uses this website to attempt to justify the registration of the disputed domain name and to take unfair advantage of the Complainant’s reputation for financial gain. Thus, the Complainant submits that it has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent submits that it has rights or legitimate interests in the disputed domain name, because it uses it to host a criticism website allowing independent users to exercise their free speech rights to post genuine criticism of the Complainant’s business, and the use of a trademark for purposes of criticism and commentary is noncommercial fair use. At the same time, the Respondent states that it registers and holds domain names for the benefit of a third party – a non-profit entity that maintains an open forum under the domain name <everything.sucks> for the public to exercise their free speech rights to engage in discussion and criticism related to a wide variety of topics. As stated by the Respondent, any user of this platform may create Wiki pages on it, devoted to a particular subject, following which the non-profit entity may register a domain name using this subject as the second level domain at the “.sucks” TLD to direct users who wish to engage in criticism of that subject to the relevant Wiki page.

The Panel understands these statements of the Respondent as a confirmation that it is not itself exercising any free speech rights, but rather assists another entity to provide an online platform for third parties who may eventually wish to exercise their free speech rights. The Respondent is essentially a third party, and has no direct relationship with any person who might be able to invoke rights of free speech and the fair use defense under the Policy. Yet it is the registrant of the disputed domain name, and not a person who may or may not have a genuine gripe to make about the Complainant.

The comments about the Complainant included on the website at the disputed domain name are anonymous and undated, and do not directly address the Complainant, which makes them appear as automatically generated. The Complainant submits that these comments are unverifiable and fake, and the Respondent has

the domain name <mirapex.sucks>, and *Lockheed Martin Corporation v. Sam Kadosh*, NAF Case No. FA1710001751762, for the domain name <lockheedmartin.sucks>.

not submitted any explanation why it believes these comments to be genuine or evidence that they have been actually made by real people on specific dates. The website contains no criticisms of the Respondent itself against the Complainant.

In addition, the Respondent's website contains many links to other webpages about third parties, *i.e.*, other brands, with similar content, and the Respondent has not provided a plausible explanation about the inclusion of these links on the website. In the absence of such explanation, it appears more likely to the Panel that the inclusion of these links was intended to increase the traffic to the respective domain names and websites, which would increase their attractiveness and price in case they are being offered for sale. Indeed, the declaration of the domain name manager of the Respondent, submitted with the Response, includes a statement that the disputed domain name has been offered for sale to the public. Although "the practice as such of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner (or its competitor)," such an offer is "highly fact-specific" and may include an evaluation of "the distinctiveness of [the] trademark at issue." WIPO Overview 3.0, section 3.1.1. Here, the distinctiveness of the SANOFI trademark and the fact that the disputed domain name is an exact match to it is clear evidence that an offer to sell the disputed domain name constitutes bad faith.

As discussed in sections 2.6.1 – 2.6.3 of the WIPO Overview 3.0, to support fair use under UDRP paragraph 4(c)(iii), the respondent's criticism must be genuine and noncommercial, and in a number of UDRP decisions where a respondent argues that its domain name is being used for free speech purposes the panel has found this to be primarily a pretext for cybersquatting, commercial activity, or tarnishment. See, *e.g.*, *Marc John Randazza v. Contact Privacy Inc. Customer 1248477621 / Don Juravin*, WIPO Case No. D2020-3041 (because "a respondent's criticism must be genuine and noncommercial... the Panel agrees with the Complainant's assertions that the Respondent's use of the disputed domain name amounts to a pretext for cybersquatting or tarnishment"); and *Wikimedia Foundation Inc. v. Protected Domain Services - Customer ID: NCR 1181691 / webudaipur, web Udaipur*, WIPO Case No. D2011-0107 (website with automatically generated content intended solely as a pretext to create the impression that it is legitimate and not in bad faith). Panels find that even a general right to legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark (such as <[trademark].TLD>); even where such a domain name is used in relation to genuine noncommercial free speech, panels tend to find that this creates an impermissible risk of user confusion through impersonation. Where the domain name is not identical to the complainant's trademark, but it comprises the mark plus a derogatory term (such as <[trademark]sucks.TLD>), panels tend to find that the respondent has a legitimate interest in using the trademark as part of the domain name of a criticism site if such use is *prima facie* noncommercial, genuinely fair, and not misleading or false.

In view of the circumstances of the present case the Panel is not satisfied that the website at the disputed domain name is a true "gripe site" and thereby represents a genuine and fair exercise of the right of free speech, and that it may give rise to rights or legitimate interests of the Respondent in the disputed domain name. Rather, it appears more likely that this website has been set up to serve as a pretext to create the impression that the registration and use of the disputed domain name is legitimate and not in bad faith, and that the actual intent behind the actions of the Respondent is more likely to have been to increase the price that it may receive from the sale of the disputed domain name. A similar fact pattern leading to similar conclusions was discussed in *De Beers Intangibles Limited v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. D2016-1465.

On this basis, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

As discussed under the section on rights and legitimate interests, the disputed domain name has not been used in connection with any genuine noncommercial criticism of the Respondent (or by third parties for that matter) against the Complainant, and the content of the associated website appears to have been automatically generated rather than created by independent persons making genuine comments directed specifically at the Complainant through the Respondent's so-called platform. It seems more likely that the Respondent's website has been set up as a pretext seeking to legitimize the conduct of the Respondent, and that its aim was to take unfair commercial advantage of the Complainant's SANOFI trademark by increasing Internet traffic to the associated website and to other websites of the Respondent or of a third party related to the Respondent (and possibly thus inflating the prices of the domain names to which these websites resolve). The Respondent moreover admits that it has put offers for sale of the disputed domain name and of other domain names in the ".sucks" gTLD on the open market.

Furthermore, as set forth in section 3.1.4 of WIPO Overview 3.0: "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." Here, as the Complainant has made clear, the SANOFI trademark is widely known, given its registration for more than 23 years before Respondent created the disputed domain name; its registration in numerous jurisdictions worldwide; and the large scale of Complainant's global operations associated with the SANOFI trademark.

Finally, the Panel notes the pattern of abusive registrations in which the Respondent has been involved. This pattern, established by the decisions cited above, further supports a finding of bad faith pursuant to paragraph 4(b)(ii) of the Policy, which provides that a "pattern of such conduct" is evidence of bad faith.

These circumstances lead the Panel to conclude that the disputed domain name has been registered and 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 <sanofi.sucks> be transferred to the Complainant.

Assen Alexiev
Presiding Panelist

Jonathan Agmon
Panelist

Douglas M. Isenberg
Panelist

Date: February 11, 2021