Decision for dispute CAC-UDRP-102072

Case number	CAC-UDRP-102072
Time of filing	2018-06-29 13:01:38
Domain names	mirapex.club

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	BOEHRINGER Ingelheim Pharma GmbH & Co. KG

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Artem Tsvetkov

OTHER LEGAL PROCEEDINGS

The panel is not informed of other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous Trademarks containing the term “MIRAPEX”, including but not limited to:
- European Trademark “MIRAPEX” No. 003364585 registered on January 25th 2006 and duly renewed
- US Trademark “MIRAPEX” No. 2062274 registered on May 13th, 1997 and duly renewed.

The Complainant also uses several domain names, including <mirapex.com> which is connected to the Complainant’s official website.

This is not contested by the Respondent.

FACTUAL BACKGROUND

The Complainant has been engaged in pharmaceutical research since 1885. The “MIRAPEX” pills have been a trustworthy treatment against Parkinson’s disease for over 12 years and are FDA approved.

The disputed domain name was registered on March 20th 2018.

The Complainant relies upon several registered “MIRAPEX” Trademarks. The Complainant has registered a number of Trademarks in the European Union and in the USA for services in class 5.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is identical to its trademark and domain name registrations.

Furthermore, the Complainant alleges that the Respondent does not have any legal rights or legitimate interests in the disputed domain name and is not related to the Complainant’s business in any way.

Finally, the Complainant argues that the disputed domain name was registered and used in bad faith by the Respondent. According to the Complainant, the Respondent has registered the disputed domain name to take advantage of the reputation of Complainant’s trademarks and for commercial gain. Moreover, the Complainant argues that the fact that the disputed domain name resolves to a webpage featuring adult content might contribute to a loss of value and reputation for the “MIRAPEX” Trademarks.

RESPONDENT:

The Respondent states that he does not need the disputed domain name.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. The disputed domain name is confusingly similar to the Complainant's Trademark

The Panel finds that the disputed domain name is identical to the Complainant’s Trademarks.

Moreover, previous Panels have already stated that “the addition of the generic Top-Level Domain (“gTLD”) “.club” does not impact the analysis of whether the disputed domain is identical or confusingly similar to the Complainant’s trade mark” (See Caesars License Company, LLC v. Registration Private, Domains By Proxy, LLC / XiDong Feng, WIPO Case No. D2018-0674).

Consequently, the Panel finds that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Panel states that the Respondent has made no use or demonstrable preparations to use of the disputed domain name in connection with a bona fide offering of goods or services. He does not make a legitimate non-commercial or fair use of the disputed domain name and is not commonly known under the disputed domain name.

Moreover, the Respondent is neither affiliated with the Complainant nor authorized by her in any way. Neither a licence nor an authorisation has been granted to the Respondent by the Complainant to make any use of the Complainant's trademark or to apply for registration of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the Panel does not find the Respondent's use of the disputed domain name to host an adult-content website to be bona fide, legitimate non-commercial or fair use. Previous Panels have reached a similar conclusion when reviewing a domain name incorporating a trademark having no connection with a respondent which directs to an adult-content website (See Perfetti Van Melle Benelux BV v. Lopuhin Ivan, IPHOSTER, WIPO Case No. D2010-0858).

Consequently, the Panel finds that the requirements of paragraph 4(a)(ii) of the Policy are fulfilled.

III. The disputed domain name was registered and used in bad faith

As for the registration of the disputed domain name in bad faith, the distinctive character of the Complainant's trademark and its reputation is such that in the Panel's view the Respondent could not ignore the “MIRAPEX” Trademark at the time of the registration of the disputed domain name. The Complainant has submitted evidence showing that the Respondent registered the disputed domain name long after the Complainant registered its trademark. The fact that the “MIRAPEX” Trademarks, owned by the Complainant, were registered long before the registration of the disputed domain name attests to Respondent’s bad faith in these particular circumstances (See Sanofi-Aventis v. Abigail Wallace, WIPO Case No. D2009-0735).

Furthermore, the disputed domain name redirects to a webpage displaying adult content. It is the consensus opinion of prior UDRP panels, that the intentional tarnishment of a complainant's trademark by conduct such as linking pornographic images or wholly inappropriate information to an unrelated trademark constitutes evidence of bad faith registration and use of the domain name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition) (See Perfetti Van Melle Benelux BV v. Lopuhin Ivan, IPHOSTER, WIPO Case No. D2010-0858).

Accordingly, the Panel finds that the Respondent has registered and uses the disputed domain name in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **MIRAPEX.CLUB**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2018-08-07

Publish the Decision