Decision for dispute CAC-UDRP-103021

Case number	**CAC-UDRP-103021**
Time of filing	**2020-04-22 09:38:39**
Domain names	**spirivadosing.com**

Case administrator

Name	**Šárka Glasslová (Case admin)**

Complainant

Organization	**Boehringer Ingelheim Pharma GmbH & Co KG**

Complainant representative

Organization	**Nameshield (Enora Millocheau)**

Respondent

Name	**neeraj manchanda**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks, including the following relevant trademark registrations:

- the International trademark n° 692353 for the word mark “SPIRIVA”, registered on April 1, 1998 for goods in class 5, namely pharmaceutical and veterinary preparations; and

- the International trademark n° 823202 for the word mark “SPIRIVA”, registered on March 18, 2004 for goods in class 10, namely instruments and apparatus for the inhalation of medicines.

Such trademarks are hereinafter individually and jointly referred to as the "SPIRIVA" trademarks.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a German global research-driven pharmaceutical enterprise founded in 1885 with approximately 50,000

employees. The three business areas of BOEHRINGER are human pharmaceuticals, animal health and biopharmaceuticals. In 2019, net sales of the BOEHRINGER group of companies amounted to about EUR 18,997 million.

The drug which is produced under the SPIRIVA trademark is tiotropium bromide, a bronchodilator that relaxes muscles in the airways and increases air flow to the lungs. It is used to prevent bronchospasm in adults with chronic obstructive pulmonary disease, including bronchitis and emphysema.

The disputed domain name <spirivadosing.com> was registered on February 10, 2020 and redirects to a webpage in construction.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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

1. The disputed domain name includes the SPIRIVA trademarks in its entirety with the addition of only the generic term "dosing". According to standard case law under the UDRP an addition of a generic term to a trademark does not take away the similarity between a domain name and a trademark. The Panel therefore finds that the disputed domain is confusingly similar to the SPIRIVA trademarks.

2. The Panel finds that the Complainant has established that the Respondent was not licenced or authorised to use the Complainant's trademarks in the disputed domain name. Furthermore, the Panel finds the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. The evidence was not challenged by the Respondent. The Panel therefore finds the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. In the absence of a Response, given that "SPIRIVA" is not a dictionary and/or commonly used term, and given that the Complainant demonstrated that Respondent registered other trademarks from Complainant as a domain name in a similar fashion, namely <jardiancedosing.com> and <pradaxadosing.com>, the Panel infers that the Respondent had the Complainant's "SPIRIVA" trademarks in mind when registering the disputed domain name, which was therefore registered in bad faith. Further, even though the disputed domain name is presently only passively held, it is a clear case of cybersquatting and the Panel finds that the disputed domain name has been used in bad faith as it is inconceivable that the Respondent has any intention to use the disputed domain name for a bona fide offering of goods or services or any other bona fide use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SPIRIVADOSING.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2020-05-28

Publish the Decision