Decision for dispute CAC-UDRP-103354

Case number	**CAC-UDRP-103354**
Time of filing	**2020-10-16 09:19:19**
Domain names	**frevax.com**

Case administrator

Organization	**Iveta Špiclová (Czech Arbitration Court) (Case admin)**

Complainant

Organization	**Boehringer Ingelheim Vetmedica GmbH**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Luce Khen**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark nr. 1527270 FREVAX registered since December 18, 2019. The Complainant is also the owner of a German trademark FREVAX® n° 302019023817 registered on October 17, 2019.

FACTUAL BACKGROUND

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

The disputed domain name <frevax.com> was registered on October 31, 2019.

According to the information provided by the Complainant the website to which the disputed domain name resolves links to a Registrar parking page.

The Complainant states that the disputed domain name is identical to its registered trademark “FREVAX”.

According to the Complainant, the Respondent has no rights or legitimate interest in the disputed domain name. The Respondent is not related in any way with the business of the Complainant. The Complainant does not carry out any activity

for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark.

Furthermore, the disputed domain name resolves to the Registrar parking page. This circumstance shows that the Respondent does not use the disputed domain name in connection with a bona fide offering of goods or services for the purposes of the Policy, and there is no evidence that he has made any demonstrable preparations to do so. Nor is this a legitimate non-commercial or fair use of the disputed domain name.

According to the Complainant the disputed domain name is registered and is being used in bad faith.

The term "FREVAX" has no descriptive meaning excepts in relation with the Complainant. It is implausible that a third party would register a domain name, that has no descriptive meaning, few days after the trademark was applied to be registered. The Complainant finds that the Respondent was aware of the Complainant and its trademark at the time the disputed domain name was registered.

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

According to paragraph 4(a) of the Policy the Complainant must prove for the requested transfer of the disputed domain name <FREVAX.COM> that
(i) the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
(ii) the Respondent has no rights or legitimate interests with respect to the domain name; and
(iii) the domain name has been registered and is being used in bad faith.

Without a doubt the Complainant complies with all these requirements:

(1)
The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). In particular, the Panel finds that the disputed domain name includes the trademark in its entirety, without any addition or deletion.

(2)

The Complainant has, to the satisfaction of the Panel, shown that the Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, which did not file any Response to the Complaint. As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name. "FREVAX" is definitely a distinctive sign used by the Complainant as trademark in order to denote its products. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <FREVAX.COM>.

(3)
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).

Bad faith requires the Respondent to be aware of the Complainant's trademark. In the present case, the Panel finds it hard to believe that the Respondent would have chosen and registered the disputed domain name in good faith, without having been aware of the Complainant's trademarks.

Furthermore, it is known that the Respondent has previously applied for domain names shortly after their registration as trademarks (WIPO Case No. D2019-2950 Milipol Inc. v. Luce Khen; Forum Case No. FA1809001806580 Acushnet Company v. Luce Khen)

There is also no explanation proving that the Respondent has made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor that it is making a legitimate non-commercial or fair use of the disputed domain name, nor that the Respondent is commonly known as FREVAX.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FREVAX.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2020-11-20

Publish the Decision