

Decision for dispute CAC-UDRP-104212

Case number **CAC-UDRP-104212**

Time of filing **2021-12-06 09:36:03**

Domain names **metacam.world**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **BOEHRINGER INGELHEIM VETMEDICA GmbH**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Organization **Shuang Li**

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 a large portfolio of trademarks including the terms “METACAM” in several countries, such as:

- the international trademark METACAM® n° 547717 registered since January 8, 1990; and
- the European trademark METACAM® n° 003566891 registered since September 29, 2005.

Furthermore, the Complainant owns multiple domain names consisting in the wording “METACAM”, such as <metacam.com> registered and used since June 25, 2003.

FACTUAL BACKGROUND

The Complainant is a family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer (1861-1939) in Ingelheim am Rhein. Ever since, BOEHRINGER INGELHEIM has become a global research-driven pharmaceutical enterprise and has today about roughly 52,000 employees. The three business areas of BOEHRINGER INGELHEIM are human pharmaceuticals, animal health and biopharmaceuticals. In 2020, net sales of the BOEHRINGER INGELHEIM group amounted to about EUR 19.6 billion.

METACAM® is a medicine is used for cats and dog to reduce post-operative pain and inflammation following surgery. It can also be used for lactating cows and calves.

The disputed domain name <metacam.world> was registered on November 28, 2021 and resolves to a registrar parking page.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name <metacam.world> is identical to the trademark METACAM® for the purposes of the Policy and that the addition of the gTLD suffix ".WORLD" is not sufficient to escape this finding.

As set out in the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded".

Finally, the Complainant's rights have been confirmed by a previous panel. See CAC Case No. 101452, Boehringer Ingelheim Vetmedica GmbH v. Whois Privacy Corp. <metacam.xyz>.

Therefore, the Complainant contends that the disputed domain name <metacam.world> is identical to Complainant's trademark METACAM®.

The Respondent does not have any rights or legitimate interest in the disputed domain name.

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

See for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. 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 METACAM®, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name points to a registrar parking page. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The disputed domain name has been registered and is being used in bad faith

The Complainant states that the disputed domain name is identical to its trademark METACAM®. Moreover, the trademark METACAM® is also registered in the Trade Mark Clearing House (TMCH) since April 16, 2014.

Please see CAC Case No. 101452, Boehringer Ingelheim Vetmedica GmbH v. Whois Privacy Corp <metacam.xyz> ("By the time the Disputed Domain Name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on the trademarks, since the trademark "METACAM" was registered in the Trade Mark Clearing House (TMCH), for which the last renewal was made before the Disputed Domain Name was created.").

Moreover, all the Google results for the term "METACAM" refers to the Complainant's drug.

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. See for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Moreover, the disputed domain name resolves to a registrar parking page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual

or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. See CAC Case No. 101452, Boehringer Ingelheim Vetmedica GmbH v. Whois Privacy Corp <metacam.app> ("Finally, the Panel notes that the Disputed Domain Name is currently held passively (i.e. resolves to a website that displays no content) and no response to the Complaint having been filed. In the Panel's view, the Respondent has intentionally registered the Disputed Domain Name which totally reproduces the Complainant's trademark "METACAM". [...] these facts, [...] bring to the conclusion that the Disputed Domain Name has been registered and is being used in bad faith.").

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT:

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

The disputed domain name consists of the Complainant's METACAM trade mark adding only the gTLD .world which does not prevent the disputed domain name being identical to the Complainant's mark for the purposes of the Policy.

The Respondent is not commonly known by the disputed domain name and is not authorised by the Complainant.

There has been no use of the domain name and so no bona fide offering of goods or services.

The Respondent has not responded to this Complaint. Passive holding of a domain name containing another's distinctive trade mark without explanation is likely bad faith registration and use. The Panel also notes that the registrar's parking page to which the disputed domain name points suggests that the disputed domain name might be available presumably for sale which can also be an indication of bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **METACAM.WORLD:** Transferred
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PANELLISTS

Name

Dawn Osborne

DATE OF PANEL DECISION

2021-12-28

Publish the Decision