Decision for dispute CAC-UDRP-101201

Case number	CAC-UDRP-101201
Time of filing	2016-04-05 10:15:09
Domain names	MOBIC.ONLINE

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co. KG

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Vernon Pursley

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 is holder of International trademark No. 563599 for MOBIC, which was registered on November 28, 1990, for antirheumatic products, anti-inflammatory products and plasters in class 5 in many countries including Austria, Benelux, Switzerland, China, Spain, France, Hungary, Italy, Poland., Romania and the Russian Federation.

The disputed domain name was registered on February 25, 2016, i.e. the Complainant's trademark predates the registration of the disputed domain name.

FACTUAL BACKGROUND

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

The Complainant claims to be 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, Germany.

Previous Panels have confirmed the right of the Complainant on previous UDRP decisions, see:

(i) CAC Case N° 101145 BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG Vs. Vernon Pursley <mobic.xyz>;

(ii) WIPO Case N° D2015-1581 BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG Vs. Andrey G Ladner / Private Person <mobic.space>;

(iii) NAF Case N° 1632971 BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG Vs. Vladimir Kiskov < mobic.webcam>.

The domain name points to an inactive page. It demonstrates a lack of use in good faith.
As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Please see:

(i) WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows,

(ii) WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen.

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 is identical or confusingly similar to a Complainant's trademark (Paragraph 4(a)(i)of the Policy).

The Panel is satisfied that this condition is met. It is well established that the generic Top-Level Domains (“gTLDs”) may be disregarded in the assessment under paragraph 4(a)(i) of the Policy (e.g., Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003). Therefore, the disputed domain name is identical to the Complainant's trademark MOBIC.

2. The Respondent's lack of rights or legitimate interests in the disputed domain name (paragraph 4(a)(ii)of the Policy)

The Complainant must show a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No.

D2003-0455). The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name as it was not contested that the Complainant has not authorized the Respondent to use the Complainant's trademark MOBIC as part of the disputed domain names, and the Respondent is not known by the disputed domain name.

3. The disputed domain name has been registered and is being used in bad faith (paragraph 4(c)(iii) of the Policy)

The Panel finds that the disputed domain name was registered in bad faith as the Respondent should have been aware of the Complainant's trademark MOBIC when the Respondent registered the disputed domain name given the trademark's reputation. Further, the disputed domain name resumes to an inactive webpage which demonstrates a lack of use in good faith (e.g. Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 and CBS Broadcasting, Inc. v. Dennis Toeppen, WIPO Case No. D2000-0400).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MOBIC.ONLINE**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2016-05-16

Publish the Decision