Decision for dispute CAC-UDRP-101235

Case number	CAC-UDRP-101235
Time of filing	2016-06-23 10:10:41
Domain names	ZANTAC.XYZ

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	Whois Privacy Corp.

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware

IDENTIFICATION OF RIGHTS

The Complainant relies upon various trade marks that comprise or incorporate the term "ZANTAC".

These include United States registered trade mark no 1967301 for the word mark ZANTAC in class 5 and registered on 9 April 1996.

FACTUAL BACKGROUND

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

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 has become a global research-driven pharmaceutical enterprise and has today about 140 affiliated companies world-wide with roughly 46,000 employees. The two main business areas of Boehringer are: Human Pharmaceuticals and Animal Health. In 2013 alone, net sales of the Boehringer group amounted to about EUR 14.1 billion .

ZANTAC® belongs to a group of drugs called histamine-2 blockers. It works by reducing the amount of acid your stomach

produces. ZANTAC® is used to treat and prevent ulcers in the stomach and intestines. It also treats conditions in which the stomach produces too much acid, such as Zollinger-Ellison syndrome. It also treats gastroesophageal reflux disease (GERD) and other conditions in which acid backs up from the stomach into the esophagus, causing heartburn.

The Complainant owns a portfolio of brands including the word “ZANTAC”.

The disputed domain name was registered on 2 June 2016 by the Respondent.

The disputed domain name has pointed to an inactive website since its registration.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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 Domain Name comprises the Complainant's trade mark in full with no further addition save for the "xyz" top level domain. In the circumstances, the Domain Name is at least confusingly similar to that mark (see Research in Motion Limited v. One Star Global LLC WIPO Case No. D2009-022).

So far as the Panel is aware the term "Zantac" has no independent meaning other than a reference to the Complainant's products. In light of this and the fact that the Domain Name comprises that mark and the "xyz" top level domain alone, the Panel has difficulty in seeing how the Domain Name might be used in a manner that did not take unfair advantage of the Complainant’s mark.

In the circumstances, the Panel concludes that the Respondent has no right or legitimate interest in the Domain Name and that the Domain Name was both registered and has been held in bad faith. In coming to those conclusions it relies upon the reasoning of the panel in Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 as elaborated upon by the three person panel in Mr. Talus Taylor, Mrs. Anette Tison v. Vicent George Warning/ Fayalobi Interaction Management, WIPO Case No. D2008-0455.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ZANTAC.XYZ**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2016-07-27

Publish the Decision