

Decision for dispute CAC-UDRP-105174

Case number CAC-UDRP-105174

Time of filing 2023-02-06 09:04:08

Domain names ofev.org

Case administrator

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

Complainant

Organization BOEHRINGER INGELHEIM INTERNATIONAL GMBH

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Huseyin Cemal COBAN

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 portfolio of trademarks including the terms "OFEV" in several countries, such as the international trademark OFEV n° 1120388 registered since April 10th, 2012.

Furthermore, the Complainant owns multiple domain names consisting of the wording "OFEV", such as <ofev.com> registered and used since January 12, 2006.

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 Biopharmaceutical Contract Manufacturing. In 2021, net sales of the BOEHRINGER INGELHEIM group amounted to about EUR 20.6 billion.

The Complainant states that "OFEV" is approved as a drug prescription for the disease's treatment of idiopathic pulmonary fibrosis (IPF).

The Complainant owns a portfolio of trademarks including the terms "OFEV" in several countries. Furthermore, the Complainant owns multiple domain names consisting in the wording "OFEV".

The disputed domain name <ofev.org> was registered on January 26, 2023 and resolves to a Dan.com page where the domain name is offered for sale for 988 USD.

PARTIES CONTENTIONS

Complainant:

The Complainant contends that the disputed domain name is identical to the trademark OFEV.

The Complainant contends that the addition of the gTLD suffix ".ORG" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name.

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 trademarks OFEV, or apply for registration of the disputed domain name by the Complainant.

Moreover, the disputed domain name resolves to a Dan.com page where the domain name is offered for sale for 988 USD. The Complainant contends this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest.

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 Complainant states that the disputed domain name is identical to its trademark OFEV. Moreover, the term "OFEV" has no signification, except in relation to the Complainant and its products. Indeed, in the view of the Complainant all the Google results for the term "OFEV" refers to the Complainant's drug.

Therefore, the Complainant finds that it is not conceivable that the Respondent would not have had actual notice of the Complainant's trademark rights at the time of the registration of the disputed domain name.

Furthermore, the disputed domain name resolves to a Dan.com page where the domain name is offered for sale for 988 USD. The Complainant asserts that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use.

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

Respondent:

On 2023-02-23 The Respondent contacted the CAC with information that the provided link to the online case file is not working. The link was warning the Respondent about the end of time limit to submit a response. The CAC provided the respondent with link and information about access to the online case file. No further correspondence was received by the Respondent.

According to CAC's records, the Respondent accessed the online platform on 7, 23 and 28 February 2023. 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 domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Panel finds that the disputed domain name is identical to the Complainant's trademark "OFEV" as it includes the trademark in its entirety, with the mere addition of the Top-Level domain ".org". The addition of the gTLD suffix ".ORG" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark. Therefore, the Panel finds that the disputed domain name <ofev.org> is identical to Complainant's trademark OFEV.

The Respondent has no rights or legitimate interests in respect of the domain name

Furthermore, based on the evidence on records and considering that the Respondent has not submitted a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

The domain name was registered and is being used in bad faith

The Panel finds that it is not conceivable that the Respondent would not have had actual notice of the Complainant's trademark rights at the time of the registration of the disputed domain name. A simple search with a search engine would have been enough to find out about the trademark of Complainant.

Furthermore, the disputed domain name resolves to a Dan.com page where the domain name is offered for sale for 988 USD. The Panel finds that the Respondent has registered the disputed domain name in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use.

Therefore, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ofev.org**: Transferred
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PANELLISTS

Name	Jan Schnedler
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DATE OF PANEL DECISION 2023-03-01

Publish the Decision
