

Decision for dispute CAC-UDRP-105550

Case number CAC-UDRP-105550

Time of filing 2023-06-21 09:21:17

Domain names micardis24.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name lu zhitao

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

According to the evidence submitted by Complainant, Complainant is the owner of the following trademarks:

- International Trademark MICARDIS nr. 523578, with registration date of 18 May 1988,
- International Trademark MICARDIS nr. 691750, with registration date of 13 March 1988.

FACTUAL BACKGROUND

According to the information provided the disputed domain name <micardis24.com> was registered on 6 May 2023.

According to the information provided by Complainant the disputed domain name resolves to a website with pornographic content.

PARTIES CONTENTIONS

COMPLAINANT:

According to the evidence submitted by Complainant, Complainant is a German 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.

Complainant submits that the disputed domain name is confusingly similar to Complainant's MICARDIS trademark. The trademark is included in its entirety in the disputed domain name; the addition of the generic numbers "24" is not sufficient to avoid the likelihood of confusion with Complainant's trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademark MICARDIS, or apply for registration of the disputed domain name. Furthermore, the disputed domain name resolves to a website with pornographic content. Respondent's use of the disputed domain name in this manner indicates neither a bona fide offering of goods or services

According to Complainant the disputed domain name is registered and is being used in bad faith. Complainant's trademark MICARDIS is a distinctive trademark. Besides, the term "MICARDIS" has no other meaning, except in relation with Complainant. Therefore, Complainant finds that it is not conceivable that Respondent would not have had actual notice of Complainant's trademark rights at the time of the registration of the disputed domain name. Furthermore, Complainant asserts that bad faith use and registration exists as Respondent uses Complainant's trademark in the disputed domain name for the purpose of diverting Internet users to a pornographic website.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the relevant trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of a trademark registration for MICARDIS. The disputed domain name incorporates the entirety of the well-known MICARDIS trademark as its distinctive element. The addition of the numbers "24" is insufficient to avoid a finding of confusing similarity. The Top-Level Domain ("gTLD") ".com" in the disputed domain name may be disregarded.

The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant.

Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In addition Complainant has demonstrated that the disputed domain name resolves to a website with pornographic content which does not represent a bona offering of goods or services.

Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the MICARDIS trademark. Respondent knew or should have known that the disputed domain name included Complainant's well-known mark. The Panel also notes the undisputed submission of Complainant that the disputed domain name resolves to a website with pornographic content.

The Panel finally notes that the disputed domain name incorporates Complainant's well-known trademark in its entirety, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **micardis24.com**: Transferred

PANELLISTS

Name	Dinant T.L. Oosterbaan
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DATE OF PANEL DECISION **2023-07-19**

Publish the Decision
