

Decision for dispute CAC-UDRP-106637

Case number **CAC-UDRP-106637**

Time of filing **2024-06-21 09:38:28**

Domain names **nexgardcol.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **BOEHRINGER INGELHEIM ANIMAL HEALTH FRANCE**

Complainant representative

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

Respondent

Name **Heinz Sohm**

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 several trademark registrations across various jurisdictions, inter alia

- The International trademark NEXGARD®, No. 1166496 registered since May 29, 2013;
- The European trademark NEXGARD®, No. 011855061 registered since October 9, 2013;
- The International trademark NEXGARD®, No. 1676177 registered since May 19, 2022 (hereinafter referred to as the "Trademark").

The Respondent did not identify any rights or evidence in this regard.

FACTUAL BACKGROUND

The Complainant is connected to the 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. More specifically the Complainant is the Business Unit that deals with animal health.

The disputed domain name <nexgardcol.com> was registered on June 19, 2024 and it points to a website selling pet food and accessories, including the NEXGARD-branded products.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant. Moreover, the Complainant contends that since the disputed domain name resolves to a website selling a variety of products for pet, especially NEXGARD-branded products and competitive products, the website contains no mention of the lack of a relationship with Complainant and therefore, its activities fail to meet the Oki Data standard (see *Oki Data Americas Inc v. ASD Inc*, D2001-0903, WIPO Nov. 6, 2001).

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its distinctive Trademark at the time of registration of the disputed domain name and that the Respondent's non-use of the disputed domain name is evidence of 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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three specific elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Publish the Decision