Decision for dispute CAC-UDRP-107012

Case number	CAC-UDRP-107012
Time of filing	2024-10-29 10:35:45
Domain names	nexgardbrasil.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOEHRINGER INGELHEIM ANIMAL HEALTH FRANCE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Guilherme da Silva

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 has evidenced to be the owner of various trademark registrations relating to its NEXGARD brand, including, but not limited to, the following:

- word mark NEXGARD, European Union Intellectual Property Office (EUIPO), registration No.: 011855061, registration date: October 9, 2013, status: active;

- word mark NEXGARD, Brazilian Intellectual Property Office (INPI), registration No.: 840537905, registration date: December 17, 2013, status: active.

The disputed domain name was registered on October 23, 2024.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

First, the Panel finds that the disputed domain name is confusingly similar to the Complainant's NEXGARD trademark, as it incorporates the latter in its entirety, simply added by the geographic term "Brasil". Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has also been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of geographic or other terms (such as e.g. the term "Brasil" referring to the South American country) is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant's NEXGARD trademark in the disputed domain name.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Second, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use, or demonstrable preparations to use, of the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain names, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain.

The Respondent is not affiliated with the Complainant, nor has it not been authorized to use the Complainant's NEXGARD trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term "nexgard" on its own. Finally, the Complainant has demonstrated that – at some point before the filing of the Complaint – the disputed domain name resolved to a website which was a copy-cat website of the Complainant's official website at <www.nexgardbrasil.com.br> without any authorization by the Complainant to do so. Such use of the disputed domain name, obviously in a fraudulent manner, neither qualifies as a bona fide nor as a legitimate noncommercial of fair use under the UDRP.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain name was registered and is being used by the Respondent in bad faith.

It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant's business and its rights in the NEXGARD trademark when registering the disputed domain name, and that the latter is directly targeting the Complainant and its trademark. Moreover, resolving the disputed domain name to a website which was a copy-cat website of the Complainant's official website at <www.nexgardbrasil.com.br> without any authorization by the Complainant to do so, leaves no doubts that the Respondent, by registering and using the disputed domain name, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant's NEXGARD trademark, and, thus, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's NEXGARD trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's copy-cat website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)

(iv) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **nexgardbrasil.com**: Transferred

PANELLISTS

Name	**Stephanie Hartung**

DATE OF PANEL DECISION 2024-11-26

Publish the Decision