# Decision for dispute CAC-UDRP-107083

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| Case number | CAC-UDRP-107083 |
| Time of filing | 2024-11-25 10:10:44 |
| Domain names | micardisbuysafely.shop |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Name | Valeriy Margulis |

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 bases its Complaint on the following MICARDIS trademarks:

- the International trademark registration “MICARDIS”, no. 523578, registered on 18 May 1988, for goods in class 05;
- the International trademark registration “MICARDIS”, no. 691750, registered on 13 March 1998, for goods in class 05.

FACTUAL BACKGROUND

The Complainant is a German family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in Ingelheim am Rhein.

Ever since, the Complainant has become a global research-driven pharmaceutical enterprise and has today about roughly 52,000 employees. The three business areas of the Complainant are human pharmaceuticals, animal health and biopharmaceuticals. In 2021, the net sales of the Complainant’s group amounted to about 20,6 billion euros.

MICARDIS is a medicine prescribed for the treatment of hypertension.

The Complainant owns MICARDIS trademarks, as cited above.

In addition, the Complainant owns multiple domain names consisting in the wording “MICARDIS”, such as <micardis.com> since 1 April, 1999.

The disputed domain name <micardisbuysafely.shop> was registered on 2 October, 2024. The disputed domain name redirects to a web page describing MICARDIS product and offering the medicinal product for sale by redirecting the consumers to an online shop.

## 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.

The Complainant's contentions are the following:

The disputed domain name <micardisbuysafely.shop> is confusingly similar to the Complainant's earlier trademark MICARDIS, that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons and that the disputed domain name was registered and is being used in bad faith.

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

1. Confusing Similarity

The Panel agrees that the disputed domain name <micardisbuysafely.shop> is confusingly similar to the Complainant's earlier trademark MICARDIS. The disputed domain name incorporates entirely the Complainant’s earlier MICARDIS trademark and the addition of the generic terms “buy” and “safely”, which are closely related to the business activities carried under the trademark MICARDIS, namely commercialization of the Complainant’s MICARDIS product, is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant’s trademark and it does not change the overall impression of the designations as being connected to the trademark MICARDIS.

Moreover, the extension “.shop” is not to be taken into consideration when examining the similarity between the Complainant’s trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as “.shop” is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L’Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

2. Lack of Respondent's rights or legitimate interests

The complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name as such is not identified in the WHOIS database as the disputed domain name.

Moreover, the Respondent is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

No license nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark MICARDIS, or to apply for registration of the disputed domain name.

The web page corresponding to the disputed domain name describes the MICARDIS product of the Complainant, offering the medicinal product for sale, by redirecting the consumers to an online shop, without displaying any information about the publisher of the page content, and without any disclaimer on the web page, warning users that the Respondent is not affiliated with the Complainant in any way.

The Respondent had an opportunity to comment on the Complaint's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

3. Bad Faith

Based on the available evidence, the Complainant's trademark MICARDIS predate the registration date of the disputed domain name. Thus, the Respondent has chosen to register the disputed domain name in order to create a confusion with such trademark. Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was well aware of the Complainant's earlier MICARDIS trademark and has intentionally registered the disputed domain name in order to create confusion with such trademark.

In the present case, the following factors should be considered:

- the Complainant's trademarks predate the registration date of the disputed domain name;
- the Respondent registered the disputed domain name which includes in its entirety the Complainant's earlier trademark MICARDIS followed by the generic terms "buy" and "safely", which are closely related to the business activities carried under the trademark MICARDIS, namely commercialization of the Complainant's MICARDIS product;
- the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name similar to the Complainant's trademark;
- the disputed domain name resolved at the time when the Complaint was filed to a website describing the MICARDIS product of the Complainant, offering the medicinal product for sale, by redirecting the consumers to an online shop, without displaying any information about the publisher of the page content, and without any disclaimer on the web page, warning users that the Respondent is not affiliated with the Complainant in any way;
- the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **micardisbuysafely.shop**: Transferred

## PANELLISTS

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| Name | **Delia-Mihaela Belciu** |

DATE OF PANEL DECISION 2024-12-31

Publish the Decision