Decision for dispute CAC-UDRP-107073

Case number	CAC-UDRP-107073
Time of filing	2024-11-20 08:07:15
Domain names	petfrontline.life

Case administrator

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

Complainant

Organization	BOEHRINGER INGELHEIM ANIMAL HEALTH FRANCE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	111

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 is, inter alia, a registered owner of the following trademark containing a word element "FRONTLINE”:

(i) FRONTLINE (word), International (WIPO) Trademark, registration date 9 June 1994, trademark no. 621912, registered for goods in the international class 5; and

(ii) FRONTLINE (word), International (WIPO) Trademark, registration date 30 January 2015, trademark no. 1245236, registered for goods in the international classes 3 and 5;

besides other trademarks consisting of the " BOEHRINGER “ or „ INGELHEIM" denominations.

(collectively referred to as "Complainant's trademarks").

Additionally, the Complainant owns multiple domain names containing the word "FRONTLINE," such as <frontline.com>, registered and used since 28 January 1999.

FACTUAL BACKGROUND

The Complainant (Boehringer Ingelheim Pharma GmbH & Co.KG). 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.

The disputed domain name <frontline.life> was registered on 15 November 2024 and it is held by the Respondent.

The domain name website (i.e. the website available under the internet address containing the disputed domain name) resolves to a Complainant’s competitor website.

The Complainant seeks the transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

A) CONFUSING SIMILARITY

The Complainant states that:

- The Complainant’s trademarks are distinctive and well-known trademarks.
- The disputed domain name contains “FRONTLINE” word element, and it is thus almost identical (i.e. confusingly similar) to Complainant’s trademarks.
- The addition of the generic term "PET" does not change the overall impression of the disputed domain name nor prevent the likelihood of confusion.
- Consequently, the disputed domain name is confusingly similar to the Complainant’s trademarks.
- The Complainant refers to previous domain name decisions in this regard.

B) NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

- The Respondent has not been commonly known by the disputed domain name.
- The Complainant has not authorized, permitted or licensed the Respondent to use the Complainant’s trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name.
- Furthermore, the disputed domain name website falsely suggests affiliation with the Complainant and appears to trade on its goodwill.
- The Complainant refers to previous domain name decisions in this regard.

C) BAD FAITH REGISTRATION AND USE

The Complainant states that:

- The Complainant's trademarks are well-known and were registered long before the disputed domain name. Previous panels have recognized the notoriety of the mark (CAC Case No. 103184, Merial v. Domain Administrator <frontlineplus.com>).
- Seniority of the Complainant's trademarks predates the disputed domain name registration and such trademarks are well known in relevant business circles. The Respondent can be considered to be aware of the Complainant's trademark when registering the domain name due to well-known character thereof, which should have been checked by the Respondent by performing a simple internet search.
- The dispute domain name website offers products competing with the Complainant’s, indicating knowledge of the Complainant’s trademarks at the time of registration. Given that the Respondent's website appears hastily created and possibly offers counterfeit or unauthorized products, the Respondent is likely engaging in bad faith use, attempting to mislead consumers for commercial gain.

RESPONDENT:

The Respondent has not provided any response to the complaint.

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

A) RIGHTS

Since the disputed domain name and the Complainant's trademarks are not identical, the key element investigated and considered by the Panel is whether the disputed domain name consisting of the term "PETFRONTLINE" is confusingly similar to the Complainant's trademarks.

The threshold test for confusing similarity under the UDRP involves a comparison between the trademark and the domain name itself to determine likelihood of Internet user confusion. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the domain name. An addition of common, dictionary, generic, or other descriptive terms is typically insufficient to prevent threshold Internet user confusion. Confusing similarity tests under the UDRP typically involve a straightforward visual and aural comparison of the trademark with the domain name.

Applying the principles described above, the Panel contends that incorporation of a dominant "FRONTLINE" element of Complainant's trademarks (which standalone enjoys high level of distinctiveness) into the disputed domain name constitutes a confusing similarity between Complainant's trademark and such domain name. The addition of a non-distinctive element – a generic prefix "PET" cannot prevent the association in the eyes of internet consumers between the disputed domain name and the Complainant's trademarks and thus the likelihood of confusion still exists.

For the sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".life") must be disregarded under the confusing similarity test as it is a necessary technical requirement of registration.

Therefore, since the Panel has decided that there is the confusing similarity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B) NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant's assertions that the Respondent is not commonly known by either disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of Policy).

In addition, the use of the disputed domain name to misleadingly divert consumers or tarnish a trademark is not legitimate (WIPO Case No. D2016-1698, Eli Lilly and Company and Novartis Tiergesundheit AG v. Manny Ghumman). Therefore, the Respondent has no rights or legitimate interests in the disputed domain name.

C) BAD FAITH

As described above, the Complainant has proven that the Respondent has used (at least for some time) the disputed domain name for promotion and offer goods likely with the intention to free-ride on the reputation and goodwill of the Complainant’s trademarks and business.

By using the domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name website by creating a likelihood of confusion with the Complainant's trademark to the source, sponsorship, affiliation, or endorsement of the Respondent's website (or other location) or of a product or service on the Respondent's website (or other location).

Such unfair use of the disputed domain cannot be considered as a use thereof in good faith and in compliance with fair business practices.

Thus, the Panel has taken a view that 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **petfrontline.life**: Transferred

PANELLISTS

Name	**Jiří Čermák**

DATE OF PANEL DECISION 2025-02-28

Publish the Decision