

ADMINISTRATIVE PANEL DECISION

STADA Arzneimittel AG, Centrafarm B.V. v. Centra Farm Server, centrafarm
Case No. D2022-3375

1. The Parties

The Complainants are STADA Arzneimittel AG, Germany, and Centrafarm B.V., Netherlands, (collectively referred to as the “Complainant” unless it is necessary to refer to them separately) represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States of America (“United States”).

The Respondent is Centra Farm Server, centrafarm, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <centra-farm.com> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Complainant filed an amendment to the Complaint on September 14, 2022.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2022. The Response was in the form of an informal email to the Center on October 1, 2022.

The Center appointed Adam Taylor as the sole panelist in this matter on October 10, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is part of a pharmaceutical group that operates various brands including “Centrafarm”, which name has been in use in the Netherlands for some 60 years in connection with the supply of generic and other medicines.

The Complainant owns a number of registered trade marks for CENTRAFARM including International Registration no. 361034, registered on August 29, 1969, in class 5.

The Complainant operates a website at “www.centrafarm.nl”, and is the registrant of <centrafarm.com>.

The disputed domain name was registered on July 31, 2022.

As of September 9, 2022, the disputed domain name resolved to a holding page with information about a web application tool.

5. Parties’ Contentions

A. Complainant

The following is a summary of the Complainant’s contentions.

The disputed domain name is confusingly similar to the Complainant’s trade mark, as it differs only by the addition of a hyphen.

The Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant has not authorised the Respondent to register or use the disputed domain name or to use its trade mark.

The Respondent has not resolved the disputed domain name to an active website and therefore the Respondent could not have used the disputed domain name for a *bona fide* offering of goods or services or made legitimate noncommercial or fair use thereof.

Nor is there any evidence that the Respondent has been commonly known by the disputed domain name or that it has acquired any relevant trade mark rights. The registrant name shown in the WhoIs does not assist the Respondent as there is no reason to believe that this is anything other than a fictitious name created solely for the purpose of trying to establish rights or legitimate interests where none exist.

The disputed domain name was registered and is being used in bad faith.

Mere registration of a domain name that is identical or confusingly similar to a well-known trade mark of itself creates a presumption of bad faith. The Respondent’s actions are suggestive of opportunistic bad faith given that the disputed domain name is so obviously connected with the Complainant.

The disputed domain name constitutes a passive holding in bad faith, in light of: the distinctive and long-standing nature, and strong reputation of, the Complainant’s mark; the Respondent’s use of false contact information; and the impossibility of identifying any good faith use to which the disputed domain name may be put.

B. Respondent

The Respondent did not file a formal response but simply emailed the Center asking how the dispute could be resolved and whether there would be “a repurchase from the complainant”. The Respondent added that “it doesn’t matter if I have to change domains”.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Preliminary Issue - Consolidation

The principles governing the question of whether a complaint may be brought by multiple complainants or against multiple respondents are set out in section 4.11 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

The Panel is satisfied that (a) the Complainants, which are part of a group of companies, have a specific common grievance against the Respondent and that the Respondent has engaged in common conduct that has affected the Complainants in similar fashion and (b) it would be equitable and procedurally efficient to permit the consolidation.

B. Identical or Confusingly Similar

The Complainant has established registered rights in the mark CENTRAFARM, as well as unregistered trade mark rights for the purposes of the Policy deriving from the Complainant’s extensive and longstanding use of that mark.

The disputed domain name is confusingly similar to the Complainant’s trade mark as it differs only by insertion of a hyphen between the two components of the mark.

The Complainant has therefore established the first element of paragraph 4(a) of the Policy.

C. Rights or Legitimate Interests

As explained in section 2.1 of the [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, the disputed domain name is effectively inactive and therefore not being used for a *bona fide* offering of goods or services. Nor is there any evidence that it ever has been.

As to paragraph 4(c)(ii) of the Policy, while the Respondent's name (as shown in the WhoIs for the disputed domain name) corresponds to the disputed domain name, all the circumstances indicate that, as the Complainant asserts, this is likely to be a fictitious name that was adopted by the Respondent specifically to take unfair advantage of the Complainant's rights. See further under section 6D below. Accordingly, the Panel considers that paragraph 4(c)(ii) of the Policy does not apply.

Nor is there any evidence that paragraph 4(c)(iii) of the Policy is relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

D. Registered and Used in Bad Faith

The Panel notes that the website at the disputed domain name resolves to a holding page with information about a web application tool that has no apparent relationship with the terms "centra-farm". In the Panel's view, it is appropriate in this situation to consider this case in the context of the principles of "passive holding", as explained in section 3.3 of the [WIPO Overview 3.0](#).

In this case, the Panel considers that the following cumulative circumstances are indicative of passive holding in bad faith:

1. the distinctiveness, fame and long-standing nature of the Complainant's mark;
2. the failure of the Respondent to submit a substantive response addressing the Complainant's allegations or to provide any evidence of actual or contemplated good faith use; and
3. the implausibility of any good faith use to which the disputed domain name may be put.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <centra-farm.com> be transferred to the Complainant STADA Arzneimittel AG.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: October 24, 2022