

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim Animal Health France v. 郭瑞媛 (guoruiyuan), 武汉煌行网络科技有限公司 (wu han huang hang wang luo ke ji you xian gong si)
Case No. D2023-2513

1. The Parties

The Complainant is Boehringer Ingelheim Animal Health France, France, represented by Nameshield, France.

The Respondent is 郭瑞媛 (guoruiyuan), 武汉煌行网络科技有限公司 (wu han huang hang wang luo ke ji you xian gong si), China.

2. The Domain Name and Registrar

The disputed domain name <buyfrontlineus.com> is registered with Xin Net Technology Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 2023, the Registrar transmitted by email to the Center its verification response registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Complainant filed an amended Complaint in English.

On June 14, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. On the same day, the Complainant requested that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended 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 in English and Chinese of the Complaint, and the proceedings commenced on June 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 12, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on July 18, 2023. 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 produces animal health products, including a flea, tick and lice protection treatment for dogs marketed as FRONTLINE. The Complainant has obtained multiple trademark registrations for FRONTLINE including the following:

- International trademark registration number 621912 for FRONTLINE, registered on June 9, 1994, designating multiple jurisdictions, including China, specifying goods in class 5; and
- International trademark registration number 1245236 for FRONTLINE, registered January 30, 2015, designating multiple jurisdictions, specifying goods in classes 3 and 5.

The above trademark registrations remain current. The Complainant also registered the domain name <frontline.com> on January 28, 1999 that it uses in connection with a website where it provides information about its FRONTLINE flea, tick and lice protection treatment (the "Complainant's FRONTLINE website").¹

The Respondent is identified as an individual and a Chinese company. The company's name may be translated as "Wuhan Huanghang Network Technology Co., Ltd".

The disputed domain name was created on June 5, 2023. It resolves to a website in English that prominently displays a photograph of a happy golden retriever and owner reproduced from the Complainant's FRONTLINE website. The website displays a badge that reads "USA Based Company". At the time of filing the Complaint, the product offered for sale on the website was a third party's pet flea medicine but, at the time of this Decision, the product offered for sale is the Complainant's FRONTLINE product. The price is displayed in USD. Shipping is offered worldwide.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's FRONTLINE trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent is not affiliated with, nor authorized by, the Complainant in any way. The Respondent's use of the disputed domain name reflects an intent to trade on the reputation of the Complainant's trademark. Such use is not fair, is not legitimate, and does not give rise to rights or legitimate interests.

¹ The Panel notes its general powers articulated *inter alia* in paragraphs 10 and 12 of the Rules and has visited the Complainant's FRONTLINE website, which is publicly available, to verify a statement regarding the site made by the Complainant. The Panel considers this process of verification useful in assessing the case merits and reaching a decision. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

The disputed domain name was registered and is being used in bad faith. The Complainant's FRONTLINE trademark is well-known. The Respondent disrupts the Complainant's business because the resolving website offers for sale unauthorized versions of the Complainant's products as well as competing products.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Language of the Proceeding

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name is formed by words in Roman characters (ASCII) and not in Chinese script; in order to proceed in Chinese, the Complainant would have to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings; and the use of Chinese in this case would impose a burden on the Complainant that must be deemed significant in view of the low cost of these proceedings.

Paragraph 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint in this proceeding were filed in English. The website associated with the disputed domain name is also in English (as is the disputed domain name itself), from which it is reasonable to infer that the Respondent understands that language. Moreover, despite the Center having sent an email regarding the language of the proceeding and the notification of the Complaint in both Chinese and English, the Respondent has not commented on the language of the proceeding or expressed any interest in participating otherwise in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting it as filed without translation does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a response in Chinese, but none was filed.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; 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.

A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the FRONTLINE mark.

The disputed domain name wholly incorporates the FRONTLINE mark. It adds the word “buy” the letters “us” (an abbreviation for “United States”) before and after the mark. However, these additions do not prevent a finding of confusing similarity because the mark remains clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

The only other element in the disputed domain name is the generic Top-Level Domain (“gTLD”) extension “.com”. As a standard requirement of domain name registration, a gTLD extension may be disregarded in the comparison with a trademark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the Respondent has] acquired no trademark or service mark rights; or
- (iii) [the Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain name wholly incorporates the Complainant’s FRONTLINE mark and gives the impression that it will resolve to a website where Internet users can buy FRONTLINE produced in the United States of America (“United States”). At the time when the Complaint was filed, the associated website offered for sale a competitor flea protection product, which is an example of a “bait and switch” tactic. The Complainant submits that the Respondent is not affiliated with nor authorized by it in any way. In the Panel’s view, this evidence constitutes a *prima facie* case that the disputed domain name is not being used in connection with a *bona fide* offering of goods or services and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance, the Respondent’s name is listed in the Registrar’s Whois database as 郭瑞媛 (guoruiyuan), and 武汉煌行网络科技有限公司 (wu han huang hang wang luo ke ji you xian gong si), which may be translated as “Wuhan Huanghang Network Technology Co., Ltd”, not the disputed domain name. There is no evidence indicating that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith. The fourth of these is as follows:

(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain name was registered in 2023, years after the registration of the Complainant's FRONTLINE mark, including in China where the Respondent is based. The disputed domain name wholly incorporates the FRONTLINE mark and uses it in relation to a website that offers for sale pet flea treatments, which is the same type of product with which the Complainant uses its mark. Although "frontline" is an English word, its use to designate animal flea protection treatments is arbitrary, thereby indicating an awareness of the nature of the Complainant, its mark and its product. This inference is confirmed by the fact that the Respondent's website prominently displays a photograph reproduced from the Complainant's FRONTLINE website. In view of these circumstances, the Panel finds that the Respondent had the Complainant and its FRONTLINE mark in mind when it registered the disputed domain name.

As regards use, the disputed domain name resolves to a website that offers products for sale. The disputed domain name gives the impression that it will resolve to a website where Internet users could buy FRONTLINE produced in the United States but, at the time when the Complainant was filed, it resolved instead to a website offering for sale a competitor pet flea treatment. In the Panel's view, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's FRONTLINE mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website within the terms of paragraph 4(b)(iv) of the Policy.

The Panel takes note that the use of the disputed domain has recently changed and that it now resolves to a website that offers for sale the Complainant's FRONTLINE product. Regardless of whether the product offered for sale is genuine or not, this change in use does not alter the Panel's above conclusions; in fact, it may reflect an acknowledgement that the disputed domain name was being used in bad faith prior to the Respondent's receiving notice of this dispute.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in 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 <buyfrontlineus.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: July 27, 2023