

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim Animal Health France v. Sorabh Hamirwasia
Case No. D2023-5060

1. The Parties

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

The Respondent is Sorabh Hamirwasia, United States of America.

2. The Domain Name and Registrar

The disputed domain name <cheapfrontlineplus.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2023. On December 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 8, 2023.

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 of the Complaint, and the proceedings commenced on December 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3.

The Center appointed Luca Barbero as the sole panelist in this matter on February 01, 2024. 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, founded in 1885, is a global leader in the animal health industry and part of family-owned Boehringer Ingelheim group.

Amongst its wide range of products, the Complainant is the producer of FRONTLINE PLUS, a product indicated for the treatment and prevention of fleas, ticks and chewing lice in dogs and cats, aiding in particular the prevention of the development of immature stages of the flea life cycle and the control of sarcoptic mange in dogs.

The Complainant is the owner, amongst others, of the following trademark registrations (Annex 5 to the Complaint):

- International trademark registration No. 621912 for FRONTLINE (word mark), registered on June 9, 1994, in class 5;
- Japan trademark registration No. 4811669 FRONTLINEPLUS (word mark), filed on March 05, 2003, and registered on October 22, 2004, in class 5.

The Complainant is also the owner of the domain name <frontlineplus.com>, registered on June 19, 2002.

The disputed domain name <cheapfrontlineplus.com> was registered on December 2, 2023, and resolves to a registrar parking page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name <cheapfrontlineplus.com> is confusingly similar to the trademark FRONTLINEPLUS in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the term "cheap" and the generic Top-Level Domain (gTLD) ".com".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent i) is not commonly known by the disputed domain name; ii) is not affiliated, licensed or authorized by the Complainant in any way and does not carry out any activity or have any business with the Complainant; iii) has made no preparations to use the disputed domain name in connection with a bona fide offering of goods or services; and iv) is not making a legitimate non-commercial or fair use of the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, since the Complainant's trademarks FRONTLINE and FRONTLINEPLUS are well known, it is unconceivable that the Respondent chose to register the disputed domain name without the Complainant and its trademarks in mind.

The Complainant also submits that the Respondent registered and used the disputed domain name in bad faith considering i) the Respondent, by resolving the disputed domain name to a registrar parking page, has failed to make active use of it; and ii) the Respondent intentionally attempted to attract Internet users to its website by creating a likelihood of confusion or a false association with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of its website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for FRONTLINE and FRONTLINEPLUS (Annex 5 to the Complaint).

The entirety of the Complainant's trademarks FRONTLINE and FRONTLINEPLUS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term "cheap" to the trademark FRONTLINEPLUS and of the terms "cheap" and "plus" to the trademark FRONTLINE may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

According to the evidence on record, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain name.

Moreover, there is no element from which the Panel could infer the Respondent’s rights and legitimate interests over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Furthermore, according to the record, there is no evidence that the Respondent may have used the disputed domain name, pointing to a registrar parking page, in connection with a bona fide offering of goods or services of a legitimate noncommercial or fair use without intention to misleadingly divert the consumers or to tarnish the Complainant’s trademarks.

In addition, the disputed domain name, incorporating the Complainant’s registered trademark FRONTLINEPLUS in combination with the descriptive term “cheap”, undoubtedly suggest sponsorship or endorsement by the Complainant. Even where a domain name consists of a trademark plus additional terms, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that, in light of the prior registration and use of the trademarks FRONTLINE and FRONTLINEPLUS in connection with the Complainant’s products, the widely known character of the FRONTLINE and FRONTLINEPLUS marks and the confusing similarity of the disputed domain name with the Complainant’s marks, the Respondent very likely registered the disputed domain name having the Complainant and its trademarks in mind.

The disputed domain name resolves to a registrar parking page. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding

doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant's trademarks, the composition of the disputed domain name and the absence of a Response and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds that the Complainant has established the third element 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 <cheapfrontlineplus.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: February 15, 2024