

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim International GmbH v. chen chen
Case No. D2024-4703

1. The Parties

The Complainant is Boehringer Ingelheim International GmbH, Germany, represented by Nameshield, France.

The Respondent is chen chen, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <ofev.makeup> (the “Domain Name”) is registered with Spaceship, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 18, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 18, 2024, 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 November 18, 2024.

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 November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 10, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on December 16, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a pharmaceutical group with around 53,500 employees. It had net sales of 25.6 billion euros in 2023. "OFEV" is approved as a drug prescription for treatment of idiopathic pulmonary fibrosis.

The Complainant owns trademarks including the term "OFEV" in several countries, such as International trademark number 1120388 (registered on April 10, 2012). The Complainant also owns multiple domain names, such as <ofev.com> (registered on January 12, 2006).

The Domain Name was registered on November 3, 2024. The Domain Name resolves to an error page. The Complainant has documented that the Respondent has configured MX servers for the Domain Name.

5. Parties' Contentions

A. Complainant

The Complainant submits that the Domain Name is identical to the Complainant's prior trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent is not commonly known by the Complainant's trademark and the Respondent is not related to the Complainant in any way. The Respondent has not been allowed by the Complainant to make any use of its trademark. The Respondent has not used the Domain Name.

Given the distinctiveness and reputation of the Complainant's trademarks, the Complainant argues that the Respondent could not have registered the Domain Name without knowledge of the Complainant's rights. The Complainant contends that the Respondent has not demonstrated any activity in respect of the Domain Name. It is not possible to conceive any plausible actual or contemplated active use by the Respondent of the Domain Name. Finally, the configuration of MX servers suggests that the Domain Name may be used for illegitimate email purposes.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark OFEV. In this case, the Domain Name is identical to the Complainant's trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain; see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is identical to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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

While 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 often impossible 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. 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.

Based on the evidence, the Respondent is not affiliated with or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Moreover, the Panel finds that the registration of a Domain Name identical to the Complainant’s trademark carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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.

The Respondent most likely knew of the Complainant when it registered the Domain Name. It follows from the fame of the Complainant’s trademark and the fact the Domain Name is identical to said trademark. The non-use of the Domain Name does not prevent a finding of bad faith, as the Complainant’s trademark is distinctive, the Respondent has failed to provide evidence of actual or contemplated good-faith use, the Respondent has concealed its identity and the Panel finds it implausible that the Respondent may put the Domain Name to use in good faith. The Panel also agrees that the configuration of MX servers may, under the circumstances of this case, indicate bad faith intent.

Based on the available record, 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 the Domain Name <ofev.makeup> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: December 18, 2024