

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim Animal Health France v. Юлія Олександрівна
Ряденцова, Private person
Case No. DUA2025-0004

1. The Parties

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

The Respondent is Юлія Олександрівна Ряденцова, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <nexgard.com.ua> (the “Disputed Domain Name”) is registered with Internet Invest Ltd / ТОВ “Інтернет Інвест” (imena.ua) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 5, 2025. On March 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 7, 2025, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Registrant information is not published, Whois privacy protection service) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2025, 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 March 7, 2025.

On March 7, 2025, the Center informed the parties in Ukrainian and English that the language of the registration agreement for the Disputed Domain Name is Ukrainian. On March 7, 2025, the Complainant confirmed its request that English be the language of the proceedings. The Respondent agreed to the Complainant’s request.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the “.UA Policy”), the Rules for .UA Domain Name Dispute Resolution Policy (the “.UA Rules”), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the “WIPO Supplemental Rules”).

In accordance with the .UA Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent in Ukrainian and English of the Complaint, and the proceedings commenced on March 17, 2025. In accordance with the .UA Rules, paragraph 5(a), the due date for Response was April 6, 2025. The Respondent submitted its Response on April 3, 2025.

The Center appointed Mariia Koval as the sole panelist in this matter on April 11, 2025. 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 .UA Rules, paragraph 7.

4. Further Procedural Considerations

Under paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated equally, that each Party is given a fair opportunity to present its case, and that the administrative proceedings are conducted with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is currently subject to an international conflict that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceedings should continue.

Having considered all the circumstances of the case, the Panel considers that there are no grounds for suspension of the proceedings in view of the following.

Prior to the filing of the Complaint, the Disputed Domain Name was used by the Respondent for a website where the Complainant's products under NEXGARD trademark (the "NEXGARD Trademark") were offered for sale; and the website displayed the Complainant's NEXGARD Trademark.

Moreover, in its email communications sent by the Respondent to the Center on March 11 and April 3, 2025, the Respondent agreed that English be the language of the proceedings and submitted the reasoned response to the Complaint. The Panel notes that the Respondent received the Complaint and communications from the Center at the email address confirmed by the Registrar, and thus its email has been functioning properly throughout the proceedings.

Thus, the Panel considers that the Respondent, having actively communicated with the Center and participated in the present proceedings, as well as received all case-related correspondence (at least in the electronic form) and sent her Response, had the opportunity to present her case.

Thus, the Respondent, in order to properly defend her rights, had the opportunity to provide all available and relevant evidence (in addition to that already provided in the reasoned Response and email communications) of her rights and legitimate interests in the Disputed Domain Name, as well as of the good faith of her registration and use of the Disputed Domain Name, if any. The Panel also notes that the Respondent appears to be in a position to control the use of the Disputed Domain Name.

The Panel therefore concludes that the Respondent, who is allegedly located in Ukraine, has been afforded a fair opportunity to present her case and, in order to ensure that the administrative proceedings are conducted with due expedition, the Panel proceeds with the case.

5. Factual Background

The Complainant is a family-owned global pharmaceutical company headquartered in Germany, with origins dating back to 1885. Today, the Complainant operates globally with approximately 53,500 employees,

focusing on Human Pharma and Animal Health. In 2023, the Complainant reported net sales of about EUR 25.6 billion.

The Complainant owns numerous NEXGARD Trademark registrations all over the world, among which are the following:

- International Trademark Registration No. 1166496, registered on May 29, 2013, in respect of goods in class 5;
- European Union Trademark Registration No. 011855061, registered on October 9, 2013, in respect of goods in class 5;
- International Trademark Registration No. 1676177, registered on May 19, 2022, in respect of goods in class 5.

The Complainant has built up a considerable online presence and is operating various social media platforms, particularly Facebook, Instagram, YouTube, and LinkedIn.

The Disputed Domain Name was registered on January 13, 2025. As of the date of filing of the Complaint and this Decision, the Disputed Domain Name resolves to a website which offers the products under the Complainant's NEXGARD Trademark for sale. The Respondent in her Response to the Complaint claimed that immediately after receiving the Complaint, she disabled the option to purchase on the website.

6. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the .UA Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that the Disputed Domain Name is identical to the Complainant's NEXGARD Trademark since the Disputed Domain Name reproduces the Complainant's NEXGARD Trademark in its entirety.

The Complainant further asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Respondent has not been commonly known by the Disputed Domain Name;
- the Respondent is not affiliated with nor authorized by the Complainant to use the NEXGARD Trademark, including in the Disputed Domain Name;
- the Respondent is using the Disputed Domain Name to disrupt the Complainant's business and to attract users by impersonating the Complainant, as the website under the Disputed Domain Name displays prominently the Complainant's NEXGARD Trademark and without identifying itself.

The Complainant contends that the Respondent registered and is using the Disputed Domain Name in bad faith. The Disputed Domain Name resolves to a website which displays the Complainant's NEXGARD Trademark and NEXGARD-branded products. Consequently, given the distinctiveness of the Complainant's NEXGARD Trademark and its reputation, it is reasonable to infer that the Respondent has registered and used the Disputed Domain Name with full knowledge of the Complainant's Trademark.

By using the Disputed Domain Name, the Complainant asserts, that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's NEXGARD Trademark 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.

B. Respondent

On April 3, 2025, the Respondent submitted a Response to the Complaint, requesting the Panel to deny the remedies requested by the Complainant.

The Respondent contends that she was not aware of the fact that the registration of the Disputed Domain Name could lead to a conflict with the Complainant. The Disputed Domain Name was not purchased for sale: the Respondent claims that she planned to engage in legitimate commercial activities. At the same time, the Respondent claims that she was not planning to mislead the consumers or disrupt the reputation of the Complainant, as it was planned to sell official products of the Complainant via cooperation with one of the Complainant's official distributors in Ukraine.

The Respondent also asserts that she does not consider herself a competitor of the Complainant. On the contrary, she has done everything necessary to promote the products under the NEXGARD Trademark in Ukraine. The Respondent also notes that the Disputed Domain Name had been vacant for more than 10 years and was therefore of no interest for purchase neither by the Complainant, nor by its distributor in Ukraine.

The Respondent also informs that immediately after receiving the Complaint, the Respondent disabled the possibility of purchasing the products under the Complainant's NEXGARD Trademark on her website, not bearing any commercial benefit. Moreover, the Respondent is positive about any proposals for cooperation and is ready to make amendments to the website at the request of the Complainant.

7. Discussion and Findings

Paragraph 4(a) of the .UA Policy binds the Complainant to prove each of the following three elements to succeed:

- (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 the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered or is being used in bad faith.

Taking into consideration many similarities between the .UA Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

7.1. Language of the Proceedings

Paragraph 11(a) of the .UA Rules provides that "unless otherwise agreed by the Parties, the language of the administrative proceedings shall be the language of the Registration Agreement (which shall be in English, Russian or Ukrainian), subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

The Registrar confirmed that the language of the registration agreement for the Disputed Domain Name is Ukrainian.

The Complaint was filed in English. The Complainant requested that the language of the proceedings be English for several reasons, including the following:

- the English language is the language most widely used in international relations;
- in order to proceed in Ukrainian, the Complainant would have had to retain specialized translation

services at a cost very likely to be higher than the overall cost of these proceedings;

- the use of Ukrainian in this case would therefore impose a burden on the Complainant which must be deemed significant.

The Respondent agreed to the Complainant's request that the language of the proceedings be English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs.

The Complainant is a French company and is obviously not able to understand and to communicate in Ukrainian. Forcing the Complainant to translate the Complaint and annexes thereto, would result in additional expenses for the Complainant and would delay these proceedings.

The Disputed Domain Name and country-code Top-Level domain ("ccTLD") comprise Latin script. The Parties have agreed that the proceedings be conducted in the English language. The Panel has also taken into account the fact that the Respondent communicated with the Center in both English and Ukrainian and presented the reasoned Response to the Complaint. This all demonstrates that the Respondent can understand the English language.

Having considered all circumstances of this case, the Panel concludes under paragraph 11(a) of the .UA Rules that English shall be the language of the proceedings. The Panel, however, has taken note of the Response which was filed in Ukrainian.

7.2. Substantive Matters

A. Identical or Confusingly Similar

In accordance with paragraph 4(a)(i) of the .UA Policy it should be established that the disputed domain names are identical or confusingly similar to a mark in which the complainant has rights.

Section 1.2.1 of the [WIPO Overview 3.0](#) makes clear that, where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a case.

The Panel accepts that the Complainant demonstrated that it has the rights in the NEXGARD Trademark in view of a large number of registrations in different jurisdictions, including Ukraine, and more than 10-year use of its Trademark, long before the Respondent's registration of the Disputed Domain Name.

The Disputed Domain Name reproduces the Complainant's NEXGARD Trademark in its entirety in combination with the ccTLD ".com.ua". In accordance with prior decisions under the .UA Policy, the applicable ccTLD in a domain name is viewed as a standard registration requirement and as such is generally disregarded under the first element confusing similarity test. See *AB Electrolux v. Зaxapoс Евгеній*, WIPO Case No. [DUA2020-0006](#). Therefore, the addition of the ccTLD ".com.ua" to the Disputed Domain Name in this case does not prevent a finding of confusing similarity between the Complainant's NEXGARD Trademark and the Disputed Domain Name.

Furthermore previous UDRP panels have recognized that incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to the complainant's registered mark; see *bridport & cie S.A v. Privatwhois.net, Private Whois bridportadvisory.com*, WIPO Case No. [D2011-2262](#).

In view of the above, the Panel concludes that the Disputed Domain Name is identical to the Complainant's NEXGARD Trademark and therefore, the Complainant has satisfied the first element of the .UA Policy.

B. Rights or Legitimate Interests

According to paragraph 4(a)(ii) of the .UA Policy the Complainant has to establish that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The applicable standard of proof in .UA cases is the "balance of probabilities" or "preponderance of the evidence". Under this standard, a party must demonstrate to the satisfaction of the Panel that the alleged fact is more likely to be true than not.

Taking into account the facts and arguments set out above, the Panel finds that the Complainant has made a prima facie case. The Complainant's origins date back to 1885. The Complainant is the owner of numerous registrations of the NEXGARD Trademark all over the world, including Ukraine. The Complainant claims that the Respondent is not affiliated with nor authorized by the Complainant to use previously registered NEXGARD Trademark, including in the Disputed Domain Name. The Respondent has failed to come forward with any evidence to rebut such prima facie case.

Also, taking into consideration the long use of the Complainant's NEXGARD Trademark, it is impossible to assume that the Respondent was unaware of the Complainant's Trademark at the time of registration of the Disputed Domain Name. Moreover, the evidence of the Respondent's good awareness of the Complainant's business and NEXGARD Trademark is also the fact that she used the Disputed Domain Name for the commercial website where the products under the NEXGARD Trademark were offered for sale and where, in its turn, the NEXGARD Trademark was displayed, and alleged that she intended to resell the Complainant's products through a cooperation with the Complainant's official distributor in Ukraine. For the reasons set out below, the Panel finds that the Respondent is not involved in a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Panels have recognized that resellers, distributors, or service providers using a domain name containing a complainant's trademark to undertake sales or repairs related to a complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "*Ok! Data test*", the following cumulative requirements will be applied in the specific conditions:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

As is seen from the circumstances of this case it is obvious that the website under the Disputed Domain Name was designed to create an impression of the official or related to the Complainant website, without being the same. Furthermore, the website under the Disputed Domain Name has no disclaimer which would disclose the Respondent's relationship with the Complainant. Thus, the Respondent does not comply with the conditions of the *Ok! Data test*.

Furthermore, the Panel finds, and the Respondent has admitted in the Response, that there is no evidence in the present case that the Respondent is commonly known by the Disputed Domain Name, which could indicate her rights or legitimate interests.

In addition, the Panel notes that the Disputed Domain Name is identical to the Complainant's previously registered NEXGARD Trademark. The Panel therefore considers that the nature of the Disputed Domain Name carries a high risk of being perceived as potentially affiliated with the Complainant.

Considering the above, the Panel concludes that the Complainant has established the requirements of the second element of the .UA Policy.

C. Registered or Used in Bad Faith

Paragraph 4(b) of the .UA Policy sets out a non-exhaustive list of circumstances that indicate bad faith conduct on the part of the respondent, namely:

(i) circumstances indicating that the respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) the respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(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.

The Panel finds that the Complainant's first registration for the NEXGARD Trademark predates the registration of the Disputed Domain Name by more than 10 years. Past .UA panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see *Google LLC v. Александр Дмитрович Бутенко*, WIPO Case DUA2020-0009). The Panel notes the explanation given by the Respondent that she did not plan to mislead consumers or damage the reputation of the Complainant, as she planned to sell official products of the Complainant. However, noting the lack of any authorization by the Complainant and the lack of disclaimer on the website which the disputed domain name resolves to, the impersonating nature of the disputed domain name is reinforced and as such, the disputed domain name cannot qualify as fair use.

In the Panel's opinion, the fact that the Respondent was aware of the Complainant and the Complainant's NEXGARD Trademark at the time of registration of the Disputed Domain Name is beyond doubt, given that the Disputed Domain Name is identical to the Complainant's NEXGARD Trademark.

Furthermore, the Respondent's knowledge of the Complainant's NEXGARD Trademark is also supported by the use of the Disputed Domain Name which resolves to the commercial website apparently exclusively offering the Complainant's veterinary products under the Complainant's NEXGARD Trademark. At the same time, the website under the Disputed Domain Name contains no information about the Respondent's relation to the Complainant (or lack thereof). As a result, the Panel finds that the Respondent had the Complainant's NEXGARD Trademark in mind and intentionally targeted the Complainant when she registered the Disputed Domain Name. Accordingly, the Panel concludes that the Respondent registered and is using the Disputed Domain Name, reproducing the Complainant's NEXGARD Trademark in its entirety, in bad faith to create a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website and of the products sold on it. When faced with the Disputed

Domain Name, the Internet users would most likely consider that it is related to or associated with the Complainant.

Therefore, the Panel concludes that the Respondent's use of the Disputed Domain Name to offer the Complainant's products for sale indicates that at the time of registration of the Disputed Domain Name the Respondent clearly and explicitly knew and targeted the Complainant's previously registered NEXGARD Trademark, which is indicative of bad faith.

For the foregoing reasons, the Panel concludes that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly, the Complainant has fulfilled the third condition of paragraph 4(a) of the .UA Policy.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .UA Policy and 15 of the .UA Rules, the Panel orders that the Disputed Domain Name <nexgard.com.ua> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: April 25, 2025