Decision for dispute CAC-UDRP-101446

Case number	CAC-UDRP-101446
Time of filing	2017-02-16 08:45:04
Domain names	BOEHRINGER-INGELHEIM-IND.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	boehringer ingelheim

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings relating to the Disputed domain name.

IDENTIFICATION OF RIGHTS

In the complaint, the Complainant submitted and enclosed evidence that it is the owner of the following trademarks, all of which have been registered prior to the registration of the Disputed domain name:

- BOEHRINGER INGELHEIM (word), US registration No. 74667607, filed on April 26, 1995 and granted on June 24, 1997, covering goods in class 5;

- BOEHRINGER INGELHEIM (word), international registration No. 221544 of July 2, 1959, covering goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32;

- BOEHRINGER INGELHEIM (device), international registration No. 722462 of July 2, 1999, covering goods in classes 5, 10 and 30;

- BOEHRINGER INGELHEIM (device), EUTM registration No. 000084657, filed on June 2, 1998 and duly renewed, covering goods in class 5;

- BOEHRINGER (word), international registration No. 799761 of December 2, 2002, covering goods in classes 1 , 2, 5, 10, 16, 30, 31, 35, 41, 42 and 44.

FACTUAL BACKGROUND

The Complainant is a German family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer (1861-1939) in Ingelheim am Rhein.

Ever since, Boehringer has become a global research-driven pharmaceutical enterprise and has today about 140 affiliated companies world-wide with roughly 46,000 employees. The two main business areas of Boehringer are: Human Pharmaceuticals and Animal Health. In 2013 alone, net sales of the Boehringer group of companies amounted to about EUR 14.1 billion.

The Complainant owns a large portfolio of trademarks including the wording “BOEHRINGER INGELHEIM” in several countries, such as the BOHERINGER INGELHEIM® international registration number 221544 since July 2nd 1959.

Furthermore, the Complainant owns multiple domain names consisting in the wording “Boehringer Ingelheim”, such as <boehringer-ingelheim.com> since 1995-09-01.

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Disputed domain name <boehringer-ingelheim-ind.com> was registered on January 16th 2017 by the Respondent.

The Complainant submits that on February 2nd, 2017, a cease and desist letter has been sent by email to the Respondent at ef01b1a553aa42c8a2c392497fa6168e.protect@whoisguard.com The Respondent did not answered to it.

The Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the Disputed domain name by the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Complainant further submits that the Disputed domain name points to a registrar parking webpage displaying sponsored links. The Complainant concludes that this does not constitute a legitimate non-commercial or fair use of the Disputed domain name. The Complainant asserts that the Respondent has only registered the Disputed domain name in order to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark.

The Complainant further argues, that given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the Disputed domain name with full knowledge of the Complainant's trademarks and maintained the Disputed domain name in order to prevent the Complainant to register its trademark as a domain name, and to intentionally attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark.

Following the factual allegations and legal argumentation, the Complainant in its Complaint submits the following statements.

The Complainant states that the Disputed domain name <boehringer-ingelheim-ind.com> is confusingly similar to its trademarks BOEHRINGER INGELHEIM® and its domain names associated.
Moreover, the Complainant contends that the Respondent has no rights or legitimate interest in the Disputed domain name, and has registered and used the domain name only in order to create a likelihood of confusion with the Complainant’s trademarks.

In addition, the Complainants contends that the Respondent has registered and is using the Disputed domain name in bad

faith.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

The Disputed domain name contains the Complainant's trade mark in its entirety and the suffix 'IND' which may be interpreted to mean 'industry', 'india' or 'indonesia'. The addition of a generic term and the gTLD .com do not serve to distinguish the disputed domain name from the Complainant's BOHERINGER INGELHEIM trade mark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Disputed domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

The Respondent is not affiliated with the Complainant. No licence has been given by the Complainant to the Respondent for use of the BOHERINGER INGELHEIM trade mark. The Respondent has presented no evidence that it is commonly known by BOHERINGER INGELHEIM or the Disputed domain name. Use for sponsored links is not bona fide use or legitimate non-commercial fair use.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Disputed domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

The Disputed domain name was registered in 2017 long after the Complainant established rights in its BOHERINGER INGELHEIM mark.

The nature of the sponsored links attached to the Disputed domain name make it obvious that the Respondent is aware of the Complainant and its rights. Use of a famous name for sponsored links is attracting Internet users to a web site by causing confusion as to whether that web site is associated with the Complainant and/or its goods and services.

Further, the Disputed domain name has been registered in a false name.

It appears the registration of the Disputed domain name was also intended to be disruptive and divert Internet users looking for the Complainant to a commercial rival web page not associated with the Complainant.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Respondent does not appear to have any rights or legitimate interests in use of the well-established BOHERINGER INGELHEIM trade mark or the Disputed domain name. It is, therefore, bad faith to register the Disputed domain name in a false name and use it for commercial third party links not associated with the Complainant the owner of the registered rights in the BOHERINGER INGELHEIM mark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BOEHRINGER-INGELHEIM-IND.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2017-03-22

Publish the Decision