Decision for dispute CAC-UDRP-101599

Case number	CAC-UDRP-101599
Time of filing	2017-07-14 10:57:01
Domain names	boehringer-ingelheim-de.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	Jo Ann Henderson

OTHER LEGAL PROCEEDINGS

NONE

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of United States registered trademark BOEHRINGER-INGELHEIM, No. 641166 registered on February 5, 1957. It also owns International Registration No. 221544 dated July 2, 1959 for the BOEHRINGER-INGELHEIM mark.

FACTUAL BACKGROUND

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

Founded in 1885, the Complainant is a very well known pharmaceutical company operating worldwide, based in Germany. The disputed domain name was registered on July 3, 2017. It resolves to a registrar parking page displaying sponsored links.

The disputed domain name is confusingly similar to its BOEHRINGER-INGELHEIM mark and that the Respondent has no rights or legitimate interests with respect to the disputed domain name, which was registered and is being used in bad faith.

The Respondent is not affiliated with nor authorized by the Complainant in any way to make any use of the Complainant's trademark or apply for registration of the disputed domain name. The Complainant does not carry out any activity for, and

has no business with the Respondent.

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.

By registering and using the domain name, it seems clear that the Respondent has maintained the disputed domain name in order to prevent the Complainant from registering its trademark as a domain name, and intentionally to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark.

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).

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).

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).

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 disputed domain name comprises the Complainant’s widely known trademark BOEHRINGER-INGELHEIM in its entirety, together with a hyphen, the geographic indication for Germany, “de”, and the inconsequential gTLD “.com”, none of which additions detract from the distinctiveness of that mark. The disputed domain name is therefore confusingly similar to the Complainant’s mark.

The Panel finds that the BOEHRINGER-INGELHEIM mark is distinctive and widely known. The Complainant’s assertions are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that she does have rights or legitimate interests in the disputed domain name. See Cassava Enterprises Limited, Cassava Enterprises (Gibraltar) Limited v. Victor Chandler International Limited, WIPO Case No. D2004-0753. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In the absence of any Response, the Panel accepts the Complainant’s assertion that the Respondent must have been aware,

when she registered the disputed domain name, of the Complainant and its widely known trademark.

As in Mobile Communication Service Inc v. Webreg, RN, WIPO Case No. D2005-1304 : “The Respondent's use of the disputed domain name for a PPC parking page constitutes bad faith use because the Respondent is attracting Internet users to its website by causing confusion as to whether its website is, or is associated with, the Complainant or its services”. Under paragraph 4(b)(iv), such use is evidence of both bad faith registration and bad faith use for the purposes of paragraph 4(a)(iii).

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2017-08-11

Publish the Decision