Decision for dispute CAC-UDRP-101600

Case number	CAC-UDRP-101600
Time of filing	2017-07-14 13:51:12
Domain names	boehriniger-ingelheim.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	mezzan ent.

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations consisting of the terms “BOEHRINGER INGELHEIM” in particular international trademark no. 221544 registered on 02.07.1959 for goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32 (and also US registration no. 641166 - BOEHRINGER-INGELHEIM – registered on 05.02.1957).

Moreover, it is the owner of various domain names including the wording “BOEHRINGER INGELHEIM”, in particular <boehringer-ingelheim.com> created on 01.09.1995.

FACTUAL BACKGROUND

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

1. The Complainant is a family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in Ingelheim am Rhein. It is a global research-driven pharmaceutical enterprise and has about 140 affiliated companies worldwide with roughly 46,000 employees. The Complainant’s two main business areas are Human Pharmaceuticals and Animal Health. The Complainant further contends the distinctiveness of its trademark and reputation.

2. The Disputed Domain Name <boehriniger-ingelheim.com> was created on 05.07.2017 and pointed to a parking webpage displaying sponsored links.

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

1. The Panel finds that the Disputed Domain Name <boehriniger-ingelheim.com> is confusingly similar to the Complainant's trademarks. Many Panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety. This is the case in the case at issue where the Complainant's registered trademark "BOEHRINGER INGELHEIM" is fully included in the Disputed Domain Name.
Finally, it is the view of this Panel that the addition of the element "i" between the letters "N" and "G" results to be an irrelevant minor variation and a common typographical error when typing the word element "BOEHRINGER". This added element does not serve to distinguish the disputed domain name.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name <boehriniger-ingelheim.com>.
In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant's business. In addition, the Respondent is not commonly known by the Disputed Domain Name.
Finally, the website to which the Disputed Domain Name resolved is a parking page displaying sponsored links. Such use can neither be considered as bona fide offering of goods or services nor a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3. Finally, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith.
The Complainant has been established many decades ago and has a worldwide reputation as pharmaceutical company and its trademarks have existed for a long time. Therefore, it is the view of this Panel that the Respondent has intentionally registered the Disputed Domain Name which totally reproduces the Complainant's trademark "BOEHRINGER INGELHEIM".
By the time the Disputed Domain Name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on its trademarks. The Complainant also proved that the Respondent was using the Disputed Domain Name to lead to a parking page displaying sponsored links. These facts, including the failure to submit a response also

confirm that the Disputed Domain Name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location, or of a product or service on the Respondent's web site or location.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINIGER-INGELHEIM.COM**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2017-08-22

Publish the Decision