# Decision for dispute CAC-UDRP-101907

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| Case number | CAC-UDRP-101907 |
| Time of filing | 2018-03-02 09:25:52 |
| Domain names | boerhinger-ingelheim.com |

## Case administrator

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

## Complainant

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| Organization | BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG |

## Complainant representative

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| Organization | Nameshield (Laurent Becker) |

## Respondent

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| Organization | ICS INC. |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns a large portfolio of trademarks including the wording “BOEHRINGER INGELHEIM” in several countries, such as:

"BOHERINGER INGELHEIM", international registration number 221544, which it has held since July 2, 1959.

“Boehringer Ingelheim”, EUTM registration number 000084657, registered on June 2, 1998.

Furthermore, the Complainant owns multiple domain names consisting of the wording “Boehringer Ingelheim”, such as <boehringer-ingelheim.com> since September 1, 1995 and <boehringeringelheim.com> since July 4, 2004.

FACTUAL BACKGROUND

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

The Complainant is a German family-owned pharmaceutical group of companies with its origins dating back to 1885, when it

was founded by Albert Boehringer (1861-1939) in Ingelheim am Rhein.

Since then, Boehringer has become a global research-driven pharmaceutical enterprise and today has about 140 affiliated companies worldwide 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 disputed domain name was registered on November 22, 2005 by the Respondent.

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PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that :

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant states that the disputed domain name is confusingly similar to its trademarks BOHERINGER INGELHEIM and its associated domain names.

In support of this claim, the Complainant refers to prior UDRP cases: CAC Case no, 101807 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Pamela Romito < BOEHRJNGER-INGELHEIM.COM>; and CAC Case no. 101730 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Cimpress Schweiz GmbH <BOEHRINGER-INGEHEIM.COM>.

The Complainant further affirms that the present case represents a clear case of typosquatting, owing to the fact that the disputed domain name contains an obvious misspelling of the Complainant’s trademark.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant’s business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The domain name has been registered and is being used in bad faith

The Complainant contends that owing to 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 foreknowledge of the Complainant's trademarks. To this end the Complainant refers to WIPO Case no. D2014-0306 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Klinik Sari Padma, BAKTI HUSADA: “Panel finds it is highly unlikely that Respondent had no knowledge of Complainant’s company name and legal rights to the trademark BOEHRINGER INGELHEIM […], considering its notorious status and success in the pharmaceutical field.”

The Complainant further states that, by registering the disputed domain name with the misspelling of the trademark BOEHRINGER INGELHEIM, the Respondent was intentionally choosing a domain name that is confusingly similar to the Complainant’s trademarks.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark and that the present case represents a clear case of typosquatting.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

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

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant’s unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant’s trademark.

Thirdly, it appears from the document provided by the Complainant that the Respondent is using the disputed domain name and the corresponding website for commercial gain, by redirecting to websites offering goods and/or services unrelated to

those of the Complainant.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

## PANELLISTS

| Name | **Dr. Fabrizio Bedarida** |
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DATE OF PANEL DECISION 2018-04-05

Publish the Decision