Decision for dispute CAC-UDRP-102130

Case number	CAC-UDRP-102130
Time of filing	2018-08-20 10:23:46
Domain names	boehinger-ingelheim.com

Case administrator

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

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Name	George Washere

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any legal proceeding related to the disputed domain name.

IDENTIFICATION OF RIGHTS

BOEHRINGER INGELHEIM ("BOEHRINGER") is a 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, Germany.

BOEHRINGER owns a large portfolio of trademarks including the wording “BOEHRINGER INGELHEIM” in several countries, such as the international trademark BOEHRINGER-INGELHEIM®, registration No. 221544, registered since July 2, 1959; as well as many gTLD <boehringer-ingelheim.com>, registered since September 1, 1995, and <boehringeringelheim.com>, registered since July 4, 2004.

The Boehringer Ingelheim group is one of the world's 20 leading pharmaceutical companies.

FACTUAL BACKGROUND

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

- FORUM Case No. 1778017, Walgreen Co. v. Amar Pachauri (“The Panel agrees that misspellings such as omission of a letter or letters does not distinguish the Domain Names from the Complainant's WALGREENS trade mark pursuant to the

Policy.”);

- WIPO Case No. D2016-0021, Boehringer Ingelheim Pharma GmbH & Co.KG v. Kate Middleton, <boehringeringelheimltd.com>;

- FORUM Case No. 1765498, Spotify AB v. The LINE The Line / The Line (“Complainant contends the <spotfy.com> domain name differs from the SPOTIFY mark only by the omission of the letter “i" in the mark, and is thus a classic case of typosquatting. […] The Panel finds that Respondent’s registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy 4(a)(ii).”);

- FORUM Case No. 1691369, TGI Friday’s of Minnesota, Inc. v. Tulip Company / Tulip Trading Company (“Previous panels have determined that neither a respondent’s use of a domain name to host competing hyperlinks, nor a respondent’s use of a domain name to redirect Internet users to websites unrelated to a complainant, constitutes a bona fide offering of goods or services pursuant to Policy 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy 4(c)(iii).”);

- CAC Case No. 101971, Boehringer Ingelheim Pharma GmbH & Co.KG v. BRIANNE HOAG (“The difference between the Complainant's trademarks and the disputed Domain Name is so thin, and the Complainant is so well-known (a pharmaceutical group of companies with roots going back to 1885, with 140 affiliated companies world-wide today and roughly 46,000 employees) that the Panel can hardly believe the the Respondent was not aware of the existence of the Complainant.”);

- WIPO Case No. D2016-1546, BOEHRINGER Ingelheim Pharma GmbH & Co. KG v. Martin Hughes (“…the registration of the Domain Name which contains obvious misspelling of the Complainant’s BOEHRINGER-INGELHEIM trademark and which is virtually identical to the Complainant’s <boehringer-ingelheim.com> domain name constitutes registration and use 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).

Namely, Complainant is the owner of several international trademark registrations dating back to 1959, as the IR n. 221544, while the first BOEHRINGER INGELHEIM resulted filed in Sweden on 1900.

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

Complainant provided serious and convincing evidences showing all the UDRP requirements, in particular:

- With regard to confusing similarity of the disputed domain names with its "BOEHRINGER INGELHEIM" well known trademark rights, applied for since 1900 worldwide, as well as many gTLD registrations;

- Lack of rights/legitimate interest by Respondent, who did not file any response;

- Bad faith in registration and use of the disputed domain names: given the distinctiveness of the Complainant's trademarks 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.This finding is confirmed by settled UDRP case-law cited by Complainant, including:

- FORUM Case No. 477183, Nextel Communications Inc. v. Jason Geer ("Panel agrees with Complainant that Respondent registered and used the disputed domain name in bad faith. First, Respondent's <nextell.com> domain name epitomizes "typosquatting" in its purest form, because Respondent misspelled Complainant's well known mark by merely adding the letter "l," causing Internet users seeking Complainant's NEXTEL mark to become confused.");

- WIPO Case No. D2016-1546, BOEHRINGER Ingelheim Pharma GmbH & Co. KG v. Martin Hughes ("…the registration of the Domain Name which contains obvious misspelling of the Complainant's BOEHRINGER-INGELHEIM trademark and which is virtually identical to the Complainant's <boehringer-ingelheim.com> domain name constitutes registration and use bad faith").

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2018-10-02

Publish the Decision