Decision for dispute CAC-UDRP-102191

Case number	CAC-UDRP-102191
Time of filing	2018-10-12 10:21:35
Domain names	boehringer-ingelhim.com

Case administrator

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

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	kapin kerry

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of the international trademark nr. 221544 BOEHRINGER-INGELHEIM registered on 2 July 1995.

FACTUAL BACKGROUND

FACTS ASSERTED BY COMPLAINANT AND NOT CONTESTED BY RESPONDENT:

According to the evidence submitted by Complainant, 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.

The disputed domain name was registered on 5 October 2018 and is held by Respondent.

According to the information provided by Complainant there is no website to which the disputed domain name resolves.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. This is a clear case of typosquatting, as the disputed domain name contains an obvious misspelling of Complainant’s trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not related in any way with the business of Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of the Complainant’s trademark. According to Complainant the disputed domain name is a typosquatted version of the BOEHRINGER-INGELHEIM trademark.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of Complainant's trademark and its reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of a trademark registration for BOEHRINGER-INGELHEIM. The disputed domain name incorporates almost the entirety of the well-known BOEHRINGER-INGELHEIM trademark as its distinctive element. The deletion of the letter “e” of the INGELHEIM part of the trademark in the disputed domain name, is insufficient to avoid a finding of confusing similarity as the BOEHRINGER-INGELHEIM trademark remains the dominant component of the disputed domain name. The top-level domain “com” in the disputed domain name may be disregarded.

The Panel notes that Complainant’s registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making 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 of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In the view of the Panel this case is a typical case of "typosquatting" which does not confer any rights nor interest in the disputed domain name.

Respondent did not submit any response.

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

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the BOEHRINGER-INGELHEIM trademark. Respondent knew or should have known that the disputed domain name included Complainant's well-known mark. The Panel notes that the disputed domain name has been registered and is being used for "typosquatting" purposes. The Panel notes that there is currently no website at the disputed domain name. Passive holding of the disputed domain name does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that the undeveloped use of the website at the disputed domain name which incorporates Complainant's trademark almost in its entirety indicates that Respondent has possibly registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location, which constitutes registration and use 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-INGELHIM.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2018-11-19

Publish the Decision