Decision for dispute CAC-UDRP-102489

Case number	CAC-UDRP-102489
Time of filing	2019-05-14 10:18:13
Domain names	boeihringer-inge1heim.com

Case administrator

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

Complainant

Organization	BOEHRINGER INGELHEIM PHARMA GMBH & CO. KG

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	owen gyu

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of the international trademark BOEHRINGER-INGELHEIM (no. 221544) registered on 2 July 1959 for goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30, 32 designating amongst others AT, BX, CH, DE, EG, ES, FR, HU, IT, LI, MA, MC, ME, PT, RS and SM. This mark has duly been renewed and is in force.

FACTUAL BACKGROUND

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

1. The Complainant is a global research-driven pharmaceutical enterprise with roots going back to 1885. Today it has about 140 affiliated companies' world-wide with roughly 50,000 employees and achieved net sales of around 17.5 billion euros in 2018.

2. It results from the registrar verification that the date of registration of the disputed domain name by the current registrant was 7 May 2019.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to an error page.

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 is confusingly similar to the Complainant's trademark.

The Complainant's registered trademark "BOEHRINGER-INGELHEIM" is almost identically included in the disputed domain name. It is true that the disputed domain name <BOEIHRINGER-INGE1HEIM.COM> contains an additional "i" (in "Boehringer") and an "1" instead of the "L" (in "Ingelheim"). However, these modifications result to be irrelevant minor variations and obvious misspellings of the trademark and are not enough to exclude confusing similarity. In fact, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see point 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - "WIPO Jurisprudential Overview 3.0").

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.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related to the Complainant's business. In addition, the Respondent is not commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy. Furthermore, it results from the evidence provided by the Complainant that the disputed domain name resolves to an error page. Such an error page cannot be considered use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services in the sense of paragraph 4(c)(i) of the Policy. In addition, the simple error page does not constitute legitimate non-commercial 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 pursuant to paragraph 4(c)(iii) of the Policy.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

Accordingly, it is satisfied that the Respondent has registered the disputed domain name for the mere purpose of creating a

risk of confusion and diverting the Internet users to its website (see paragraph 4(b)(iv) of the Policy). Moreover, the fact that the disputed domain name is not being used is to be considered as passive holding. The incorporation of a famous mark into a domain name, coupled with an inactive website, is to be considered as bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEIHRINGER-INGE1HEIM.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2019-06-25

Publish the Decision