Decision for dispute CAC-UDRP-102582

Case number	CAC-UDRP-102582
Time of filing	2019-07-23 09:52:35
Domain names	bohringer-ingelheim.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

Name	Chris Mayson

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark nr. 221544 BOEHRINGER-INGELHEIM registered since July 2, 1959 and duly renewed.

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 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 July 16, 2019 and is held by the Respondent.

According to the information provided by the Complainant the website to which the disputed domain name resolves links to a Registrar parking page with commercial links both related and unrelated to the Complainant.

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

According to the Complainant the disputed domain name is confusingly similar to Complainant's trademark, as the disputed domain name contains an obvious misspelling of Complainant’s trademark (typosquatting).

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

According to the 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 the Respondent has registered the disputed domain name with full knowledge of Complainant's trademark.

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a domain name is identical or confusingly similar to a complainant’s trademark where the domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. The 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 BOEHRINGER 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 the Complainant’s registration of its trademark predates the creation date of the disputed domain name.

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

The Respondent did not submit any response.

Under these circumstances, the Panel finds that the 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. The Complainant has rights in the BOEHRINGER-INGELHEIM trademark. The Respondent knew or should have known that the disputed domain name included the 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 the website to which the disputed domain name resolves links to a Registrar parking page with commercial links related to the Complainant. The disputed domain name is therefore registered and used in bad faith. The Panel further notes that the use of 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. **BOHRINGER-INGELHEIM.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2019-08-16

Publish the Decision