Decision for dispute CAC-UDRP-103501

Case number	CAC-UDRP-103501
Time of filing	2021-01-12 08:33:47
Domain names	boehringer-ingselheim.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	Randy Moore

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 the international trademark BOEHRINGER-INGELHEIM® n°221544, registered since July 2, 1959 and duly renewed, and the international trademark BOEHRINGER INGELHEIM® n°568844 registered since March 22, 1991.

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 <boehringer-ingselheim.com> was registered on January 4, 2020. The disputed domain name resolves to a page looking like a parking page with commercial links, but those links do not redirect to any other website and MX servers are configured.

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). The addition of the letter “S” in the trademark BOEHRINGER-INGELHEIM® and the use of the gTLD “.COM” are not sufficient to escape the finding that the domain name <boehringer-ingselheim.com> is confusingly similar to the Complainant’s trademark and it does not change the overall impression of the designation as being connected to the trademark BOEHRINGER-INGELHEIM®. The disputed domain name <boehringer-ingselheim.com> constitutes a misspelled word of the Complainant’s registered trademark BOEHRINGER-INGELHEIM®.

This is thus a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark. Please see for instance for instance CAC Case No. 102708, Boehringer Ingelheim Pharma GmbH & Co.KG v. stave co ltd <boehrinqer-ingelheim.com> (It is the common view among UDRP panelists that a domain name which contains a common or obvious misspelling of a trademark normally will be found to be confusingly similar to such trademark, where the misspelled trademark remains the dominant or principal component of the domain name, see Edmunds.com, Inc. v. Digi Real Estate Foundation, WIPO Case No. D2006-1043, <edmundss.com>. The disputed domain name is such a typosquatting domain and is accordingly confusingly similar to the trademark of the Complainant.”).

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).

The Respondent is not known as the disputed domain name, but as “Randy Moore”. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. For instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).”).

The Respondent has no rights or legitimate interests in respect of the disputed domain name <boehringer-ingselheim.com> and he is not related in any way with 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 BOEHRINGER-INGELHEIM®, or apply for registration of the disputed domain name by the Complainant.

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).

By registering the domain name <boehringer-ingselheim.com> with the misspelling of the trademark BOEHRINGER-INGELHEIM®, this practical was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP panels have seen such actions as evidence of bad faith (see for instance WIPO Case No. D2016-1546, Boehringer Ingelheim Pharma GmbH & Co. KG v. Martin Hughes <boehringer-ingalheim.com>).

Furthermore, the disputed domain name resolves to a parking page with commercial links but without any active links, and MX servers are configured. It is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

PROCEDURAL FACTORS

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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

The Respondent has registered and is using its domain in the context of a clear case of "typosquatting“. The domain is only parked for a passive website with commercial links but without any active links, and MX servers are configured.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGER-INGSELHEIM.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2021-02-04

Publish the Decision