

Decision for dispute CAC-UDRP-103577

Case number	CAC-UDRP-103577
Time of filing	2021-02-15 09:38:00
Domain names	beoringer-ingelhseim.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Name	mark walton
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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 is the registered owner of the following trademarks:

- international registration of the trademark BOEHRINGER INGELHEIM, No. 221544 registered since 2 July 1959 in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32 of the International Nice Classification; and
- international registration of the trademark BOEHRINGER INGELHEIM, No. 568844, registered since 22 March 1991 in classes 1, 2, 3, 4, 5, 9, 10, 16, 30 and 31 of the International Nice Classification.

FACTUAL BACKGROUND

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

The Complainant is a pharmaceutical group of companies founded in 1885 with operations worldwide and about 50 000 employees. Its main businesses are human pharmaceuticals and animal health. Net sales in 2018 amounted to about EUR 17.5 billion.

Besides the International trademarks No. 221544 dated 2 July 1959 and No. 568844, the Complainant is also the registrant of

numerous domain names incorporating its business name “BOEHRINGER INGELHEIM”, including in particular <boehringer-ingelheim.com> (registered since 1 September 1995).

No information is known about the Respondent who registered the disputed domain name <beoringer-ingelhseim.com> on 8 February, 2021 under a privacy statement.

The disputed domain name currently redirects to parking pages with commercial links. The commercial links do not redirect to any other websites.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <beoringer-ingelhseim.com> and the Complainant's registered trademarks BOEHRINGER-INGELHEIM are confusingly similar.

Particularly, the Complainant contends that the domain name contains “an obvious misspelling of the Complainant’s trademark: BEORINGER-INGELHSEIM instead of BOEHRINGER-INGELHEIM” and considers the present situation is a clear case of “typosquatting”.

Indeed, according to the Complainant, the small differences between its registered trademarks and the disputed domain name do alter the overall similar impression the domain name and the registered trademarks leave.

The Complainant also points out that the applicable Top-Level suffix “-.com” does not per se prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making any businesses with the Complainant. Moreover, the Complainant states that the Respondent has not been licensed or authorized in other way to use the Complainant’s trademarks nor to apply for or use any domain name incorporating such trademarks.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states due to its worldwide presence and considering that the Complainant’s sign “BOEHRINGER-INGELHEIM” is a well-known mark, the Respondent certainly had full knowledge of the Complainant rights over the name BOEHRINGER-INGELHEIM at the time of the disputed domain name’s registration.

Moreover, the Complainant contends that due to the fact that the disputed domain name is a misspelled version of the Complainant’s registered trademarks, the Respondent chose to register the disputed domain name intentionally in order to create a confusion as to the business origin affiliation or endorsement. Now, the disputed domain name resolves to parking pages with commercial links but without any active links and the mail exchange servers are configured, thus according to the Complainant, the Respondent is currently acting in bad faith.

RESPONDENT:

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 trademarks 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 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

Paragraph 15 of the Rules states that the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

1.

The Panel finds that the disputed domain name <beoringer-ingelhseim.com> is visually and phonetically very similar with the Complainant's registered trademarks "BOEHRINGER-INGELHEIM", given that the signs contain the majority of the same letters, have the same word structure and look alike at the first sight. Indeed, the disputed domain name appears to be a misspelled version of the registered trademarks rather than a different denomination independently selected by the Responded.

Moreover, the variation in some letters and the gTLD ".com", which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademarks produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademarks are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant's contentions and evidences submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant nor currently known and has never been known as "BOEHRINGER-INGELHEIM", or any combination of such trademark.

Furthermore, the disputed domain name <beoringer-ingelhseim.com> is not associated with any business activity and resolve currently in parking pages with the sole purpose of attracting Internet users and redirecting them to other webpages. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name and rather appears to use the disputed domain name for his own commercial gain by creating a likelihood of confusion with the Complainant's trademarks.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. Given the widespread presence of the Complainant's trademarks and the way how the Respondent is using the disputed domain name which is confusingly similar to the Complainant's trademarks, the Panel finds that the Complainant intended to free ride on the reputation of Complainant's trademarks in an attempt to exploit, for its commercial gain, Internet users destined for Complainant.

In fact, by choosing and registering the disputed domain name which represents a misspelled version of the Complainant's well-known trademark, the Respondent is likely to be engaged in typosquatting, a practice by which a registrant of a domain name deliberately introduces slight deviations into famous marks for its commercial gain.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panel infers that by choosing to register the domain name which is similar to Complainant's trademarks and by intending to exploit, for commercial gain, Internet users destined for Complainant, the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BEORINGER-INGELHSEIM.COM**: Transferred

PANELLISTS

Name	JUDr. Hana Císlerová, LL.M.
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DATE OF PANEL DECISION 2021-03-14

Publish the Decision
