

Decision for dispute CAC-UDRP-104178

Case number	CAC-UDRP-104178
Time of filing	2021-11-23 09:33:23
Domain names	boehringer-ingeheim.org

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 S.A.S.
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Respondent

Name	khalid chemicals
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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 international trademark BOEHRINGER INGELHEIM, No. 221544. The trademark was registered in 2 July 1959, in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32 of the International Nice Classification.

The Complainant owns also the international trademark BOEHRINGER INGELHEIM, No. 568844, registered on 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 with 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 dated 22 March, 1991, the Complainant is also the registrant of numerous domain names incorporating that trademarks, including in particular <boehringer-ingelheim.com> (since 1 September 1995) and <boehringeringelheim.com> (since July 4, 2004).

No information is known about the Respondent who registered the disputed domain name <boehringer-ingeheim.org> on 17 November, 2021.

The disputed domain name currently redirects to a WordPress Blog page with no content.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <boehringer-ingeheim.org> and the Complainant's registered trademarks BOEHRINGER-INGELHEIM are confusingly similar.

Particularly, the Complainant contends that its trademarks are fully contained within the disputed domain name and points out that the deletion of one letter is less relevant and does alter the overall same impression the domain name and the registered trademarks leave.

The Complainant also points out that the applicable Top-Level suffix ".org" does not per se prevent 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 that due to its worldwide presence and considering that the Complainant's sign "BOEHRINGER-INGELHEIM" is a well-known mark, the Respondents could not be unaware of the Complainant rights over the name BOEHRINGER-INGELHEIM at the time of the disputed domain name registration.

Moreover, the Complainant contends that registration of the domain name <boehringer-ingeheim.org> with the misspelling of the trademark BOEHRINGER-INGELHEIM is per se an indication of a bad faith action.

Finally, the Complainant contends that the disputed domain name resolves to a template webpage with no content ever stored on it and that for all those reasons, 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.

RESPONDENT:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

Paragraph 15 of the Rules states that the Panel decides 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 <boehringer-ingeheim.org> 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 Respondent.

Moreover, the gTLD ".org", 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 <boehringer-ingeheim.org> has never been associated with any business activity and resolves currently in a webpage with no content. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name and rather appears to have the intention 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 have 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 exploit the reputation of Complainant's trademarks.

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 almost identical to Complainant's well-known trademarks, the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGER-INGEHEIM.ORG**: Transferred

PANELLISTS

Name	JUDr. Hana Císlerová, LL.M.
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DATE OF PANEL DECISION 2021-12-19

Publish the Decision
