Decision for dispute CAC-UDRP-100923

Case number	**CAC-UDRP-100923**
Time of filing	**2015-02-06 12:13:22**
Domain names	**boehringer-ingelheim.soy**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**BOEHRINGER Ingelheim Pharma GmbH & Co. KG**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Organization	**Republica LLC**

OTHER LEGAL PROCEEDINGS

None

IDENTIFICATION OF RIGHTS

The Complainant owns a portfolio of trademarks including the word “Boehringer” and “Boehringer Ingleheim” in several countries, such as:

BOEHRINGER, International Trademark N°799761 registered on 02.12.2002;
BOEHRINGER INGELHEIM, International Trademark N°221544 registered on 02.07.1959;
BOEHRINGER, Europe Trademark N°2932853 registered on 02.03.2005;
BOEHRINGER, United States Trademark N°1365035 registered on 08.10.1985;
BOEHRINGER INGELHEIM, Europe Trademark N°2493195 registered on 20.05.2003.

The disputed domain name was registered on 17.10.2014.

FACTUAL BACKGROUND

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

The Complainant is a 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 Complainant submits evidence Boehringer has become a global research-driven pharmaceutical enterprise and has today about 140 affiliated companies world-wide with roughly 46,000 employees. The two main business areas of Boehringer are: Human Pharmaceuticals and Animal Health. In 2013 alone, net sales of the Boehringer group of companies amounted to about EUR 14.1 billion.

The Complainant claims that the disputed domain name is identical to a trademark in which it has rights.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name 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 licence nor authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain name by the Complainant.

The Complainant submits evidence a cease and desist letter was sent to the Respondent by email and the Respondent has not replied.

Finally, the Complainant contends the disputed domain name has been registered and is being used in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

The disputed domain name < boehringer-ingelheim.soy > includes the trademark “Boehringer Ingleheim” in its entirety. The trademark is also registered in the Trademark clearinghouse since 17.04.2014.

The addition of the dash “–“ and the New GTLD “.SOY” is not sufficient to escape the finding that the domain name is identical or confusingly similar to the trademarks.

The Panel finds that the “BOEHRINGER INGELHEIM” mark is distinctive. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. The Respondent has made no attempt to do so. Accordingly, the Panel finds

that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant sent a cease-and-desist letter to the Respondent by email in order to know the reasons of this registration but the Respondent has not replied.

It is highly unlikely that Respondent had no knowledge of Complainant's company name and legal rights to the trademark BOEHRINGER INGELHEIM at the time of registration of the disputed domain names, considering its notorious status and success of the Complainant in the pharmaceutical field.

Therefore, given the reputation of the Complainant's trademark as far as bad faith is concerned the Respondent should have been aware of the Complainant's rights as it was obliged to determine whether its domain name registration infringes or violates someone else's rights under paragraph 2 of the Policy.

See notably:
WIPO case n°D2013-0116, Boehringer Ingelheim Pharma GmbH & Co. KG vs. Whois Privacy Services Pty Ltd / Dzone Inc., Yeonju Hong;
WIPO case n° D2012-0890 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Name Redacted
WIPO case n° D2012-0462 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Ren Hua
WIPO case n° D2006-1594 Boehringer Ingelheim Pharma GmbH & Co. KG vs. Philana Dhimkana
WIPO Case No. D2000-0003 Telstra Corporation Limited v. Nuclear Marshmallows;
WIPO Case No. D2008-0028 Action S.A. v. Robert Gozdowski;
WIPO Case No. D2000-0400CBS Broadcasting, Inc. v. Dennis Toeppen,

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGER-INGELHEIM.SOY**: Transferred

PANELLISTS

Name	**Mr. Etienne Wéry**

DATE OF PANEL DECISION 2015-03-26

Publish the Decision