Decision for dispute CAC-UDRP-100938

Case number	**CAC-UDRP-100938**
Time of filing	**2015-03-03 13:09:59**
Domain names	**boehringer--ingelheim.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

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

Complainant representative

Organization	**Nameshield (Anne Morin)**

Respondent

Organization	**VistaPrint Technologies Ltd**

OTHER LEGAL PROCEEDINGS

No other proceedings have been notified to the Panel.

IDENTIFICATION OF RIGHTS

Numerous trademarks under several Nice Classification categories are registered in favour of the Complainant in a range of jurisdictions. These marks include the hyphenated form of Boehringer Ingelheim in Classes 01, 02, 03, 04, 05, 06, 16, 17, 19, 29, 30 and 32. The Complainant has furthermore offered extensive proof of longstanding reputation associated with its brand and of being the holder of several domain name registrations, including boehringer-ingelheim.com and other hyphenated forms of generic TLDs corresponding to its brand.

The rights identified relate in particular to pharmaceutical products which have been marketed on the basis of the notoriety the Boehringer Ingelheim brand has won in the human and veterinary services pharmaceuticals sectors worldwide.

FACTUAL BACKGROUND

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

The Complainant maintains that it is one of the world's twenty leading research-driven pharmaceutical companies in the human and veterinary heath sectors, with a history spanning over 125 years. It states that it has 142 affiliated companies world-wide with some 47,000 employees and recent turnover exceeding €14 billion. The Complainant has shown that it owns

several trademarks trademarks in several countries consisting in the wording Boehringer Ingelheim and that it has constructed a significant portfolio of domain names around this wording, including in its hyphenated variants.

The Complainant has also shown that it sent a cease-and-desist letter to the Respondent, to which no response was received. And it has provided extensive evidence of WIPO UDRP proceedings which have both upheld its own claims against cybersquatters and held against the Respondent on the basis of complaints brought by other right-holders. The Complainant was thereby able to show a pattern of bad faith registrations on behalf of the Respondent.

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

All the factors mentioned by the Complainant are relevant to the present case but not quite conclusive. The remaining and novel question relates to the inclusion of a double hyphen in registration and/or use of the contested domain name. The Complainant points out that the resulting domain is in effect identical to the wording in respect of which it owns rights. It alleges that the Respondent’s inclusion of two hyphens amounts to “typosquatting“.

The Panel observes that, pursuant to its powers under Rule 10(a) of the Rules for the Uniform Domain Name Dispute Resolution Policy, it has ascertained that the double-hyphen form of domain name tends indeed to be used in typosquatting contexts, including employment in spam. Visually, the double hyphen can easily be confused with a single one. Its inclusion in a domain name therefore offers a degree of opportunity to cybersquatters to attract traffic from the intended destination associated with the brand in question. There is indeed little other purpose one can conceive of for use of the double hyphen than this, particularly when used in combination with an eminent brand. In the absence of any explanation from the Respondent, the Panel must therefore infer that this use of the double hyphen was made in bad faith, there also being no sign that the Respondent has any legitimate interest in the name.

The Panel therefore accepts the Complainant’s contention in respect of typosquatting by having demonstrated in particular the manner in which the domain name boehringer--ingelheim.com is effectively identical to a trademark in which the Complainant has rights under Rule 3(b)(ix)(1) of the UDRP Rules.

Having met all the requirements for demonstrating its own rights and the lack of legitimate interest combined with the existence of bad faith on the part of the Respondent, the Panel accordingly holds for the Complainant and requires that the domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Kevin J. Madders**

DATE OF PANEL DECISION 2015-04-25

Publish the Decision