Decision for dispute CAC-UDRP-102887

Case number	CAC-UDRP-102887
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Domain names	boehringeringelheimin.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Steve Borucki

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns a large portfolio of trade marks consisting of the name BOEHRINGER INGELHEIM, including the international trade mark BOEHRINGER-INGELHEIM, registration number 221544, first registered on 2 July 1959 in international classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32; and the US trade mark BOEHRINGER-INGELHEIM, registration number 72000475, registered on 16 September 1997 inter alia in international class 5. Furthermore, the Complainant owns multiple domain names consisting of the words “BOEHRINGER INGELHEIM”, including <boehringer-ingelheim.com>, registered on 31 August 1995, which is connected to the official Boehringer Ingelheim website, and <boehringeringelheim.com>, registered on 4 July 2007.

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 in Ingelheim am Rhein. Today, the Complainant is one of the world’s 20 leading pharmaceutical companies with about 50,000 employees. The three business areas of Boehringer are human pharmaceuticals, animal health and bio pharmaceuticals. In 2018, net sales of the Boehringer group amounted to about EUR 17.5 billion.

The Respondent registered the disputed domain name <boehringeringelheimin.com> on 28 January 2020. The disputed domain name currently resolves to a parking page and is inactive. There is no evidence before the Panel that the disputed domain name has ever been used for an active website since it was registered.

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).

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

The Panel finds that the disputed domain name <boehringeringelheimin.com> is confusingly similar to the Complainant's trade marks BOEHRINGER INGELHEIM and BOEHRINGER-INGELHEIM. Indeed, the disputed domain name incorporates the Complainant's trade marks in their entirety, save for the dash, which is to be disregarded for the purpose of this analysis. The addition of the suffix IN, which the Complainant believes to represent the country code for India, is not sufficient to alter the overall impression of the designation as being connected to the Complainant's trade marks; the addition of the suffix IN does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names. The Panel follows in this respect the view established by numerous other decisions that a domain name that wholly incorporates a Complainant's registered trade mark may be sufficient to establish confusing similarity for purposes of the UDRP (see, for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy <porsche-autoparts.com>; and WIPO Case No. Case No. D2017-0261, Boehringer Ingelheim International GMBH v. (Boehringer Ingelheim) <boehringer-ingelheim-in.com> ("The disputed domain name is almost identical to the Complainant's registered trademark. The only difference is the addition of the country code "in" for India. There can be no other inference but that the disputed domain name is confusingly similar to the Complainant's registered trademark BOEHRINGER INGELHEIM. Paragraph 4(a)(i) of the Policy is satisfied")).

There is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. The Panel further notes that there is neither any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. Indeed, the disputed domain name is not being used for any active website but resolves to a parking page, which has in itself been regarded by other panels as supporting a finding that the respondent did not have a bona fide offering of goods or services or make legitimate non-commercial or fair use of the disputed domain name (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants ("The Panel finds that Respondent's lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate non-commercial or fair use per Policy paragraphs 4(c)(i) and (iii)")).

The Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade marks or to apply for or use the disputed domain name. The Whois information does not suggest that the Respondent is commonly known by the disputed name <boehringeringelheimin.com>. Absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant's trade mark BOEHRINGER-INGELHEIM is a distinctive and well-known trade mark. Other Panels have confirmed the reputation of the trade mark BOEHRINGER-INGELHEIM inter alia in the following cases: WIPO Case No. D2019-0208, Boehringer Ingelheim Pharma GmbH & Co. KG v. Marius Graur <boehringer-ingelheim.world> and <boehringeringelheim.world> ("Because of the very distinctive nature of the Complainant's trademark [BOEHRINGER-INGELHEIM] and its widespread and longstanding use and reputation in the relevant field, it is inconceivable that the Respondent registered the disputed domain name without being aware of the Complainant's legal rights"); and CAC Case No. 102274, Boehringer Ingelheim Pharma GmbH & Co KG v. Karen Liles ("In the absence of a response from Karen Liles and given the reputation of the Complainant and its trademark (see, among others, WIPO Case No. D2016-0021, Boehringer Ingelheim Pharma GmbH & Co.KG v. Kate Middleton), the Panel infers that the Respondent had the Complainant's trademarks BOEHRINGER-INGELHEIM in mind when registering the disputed domain name."). Given the distinctiveness of the Complainant's trade mark and its reputation, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trade mark.

Furthermore, the website related to the disputed domain name is currently inactive and the Respondent has not demonstrated any activity in respect of the disputed domain name; it is difficult to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate on the grounds that it constitutes passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trade mark law.

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using 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. **BOEHRINGERINGELHEIMIN.COM**: Transferred

PANELLISTS

Name	**Gregor Kleinknecht**

DATE OF PANEL DECISION 2020-03-13

Publish the Decision