

Decision for dispute CAC-UDRP-104957

Case number	CAC-UDRP-104957
Time of filing	2022-11-01 09:09:22
Domain names	boehringer-ingelheim.homes

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	NGUYEN NGOC TU
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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

International Trademark Registration No. 221544 dated 7 February 1959 in relation to various classes designating various jurisdictions.

FACTUAL BACKGROUND

The Complainant is a member of a German family-owned pharmaceutical group of companies that trades as BOEHRINGER INGELHEIM ("The BOEHRINGER INGELHEIM Group"). The BOEHRINGER INGELHEIM Group was founded in 1885 by Albert Boehringer in the German town of Ingelheim am Rhein.

Today, the BOEHRINGER INGELHEIM Group has become a global research-driven pharmaceutical business with more than 52,000 employees. The three main business areas are human pharmaceuticals, animal health and biopharmaceuticals. In 2021 the BOEHRINGER INGELHEIM Group achieved net sales of 20.6 billion euros.

The Complainant owns a large portfolio of trademarks in several countries that contain or consist of BOEHRINGER INGELHEIM. Some of these trademarks date back for many decades.

Furthermore, the Complainant owns multiple domain names that contain or consist of BOEHRINGER INGELHEIM, such as

<boehringer-ingelheim.com>, which has been registered since 1995 and used for the Complainant's official website.

The disputed domain name was registered on 21 October 2022 it resolves to a website template that has no obvious connection to the words BOEHRINGER INGELHEIM.

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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant asserts it has an international trademark registration for BOEHRINGER INGELHEIM designating a number of countries. This registration predates the registration date of the disputed domain name by over 60 years.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark BOEHRINGER INGELHEIM.

The next question is whether the disputed domain name is confusingly similar to the BOEHRINGER INGELHEIM trademark.

The Panel disregards the gTLD suffix ".home" for the purpose of this comparison. As the Complainant's representative, Enora Millocheau, correctly submits, past panels have found that gTLD's are of no relevance in determining whether a domain name is identical or confusingly similar to a trademark (See F.Hoffmann-La Roche AG v. Macalve e-dominios S.A. WIPO Case No. D2006-0451). Domain names, and the format in which they appear, are globally observed by internet users and consumers every day. They are part of everyday human experience and commonly marketed via offline means (e.g. signage, branded stationary, merchandise, print advertisements, television) in addition to being observed online. Hence the average person who is using the internet is going to clearly understand that in the format of a domain name the gTLD at the end of the domain name is not commonly an element that identifies one particular trader, but rather used generically by multiple traders. This understanding remains so for common gTLDs like ".com", ".net" and ".org" and for less common gTLDs like ".home". This common format of domain names is now well understood by the average person and for this reason they will see ".home" as of any brand significance.

Further, the simple hyphen appearing between BOEHRINGER and INGELHEIM in the disputed domain name is likely to be ignored. Web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the words BOEHRINGER INGELHEIM.

The disputed domain name is therefore confusingly similar to the BOEHRINGER INGELHEIM trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to information provided by the registrar for the disputed domain name is "NGUYEN NGOC TU". This name bears no resemblance to "BOEHRINGER-INGELHEIM". Further, the website to which the disputed domain name resolves does not have content which would indicate any right or legitimate interest in the disputed domain name.

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

BAD FAITH

The Complainant's trade mark is distinctive and very well known internationally. In such circumstances it is reasonable to infer that the Respondent registered the strikingly similar disputed domain name with full knowledge of the Complainant's rights the BOEHRINGER INGELHEIM trademark. Such similarity will inevitably confuse web-users. It is further reasonable to infer that the only foreseeable purpose that the Respondent had to so register the domain name and direct it to a template website was to opportunistically profit from such confusion. Such opportunism has been recognised as bad faith by numerous panels, the Panel refers to the commentary of the learned Gerald M Levine, Domain Name Arbitration, Legal Corner Press, 2nd ed. 2019, pp. 432 to 434.

The disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boehringer-ingelheim.homes**: Transferred

PANELLISTS

Name	Andrew Sykes
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DATE OF PANEL DECISION **2022-11-29**

Publish the Decision
