

Decision for dispute CAC-UDRP-106009

Case number	CAC-UDRP-106009
Time of filing	2023-11-28 09:20:13
Domain names	proboehringer-ingelheim.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

Organization	Fundacion Comercio Electronico
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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 owns a considerable trademark portfolio, among others it is the registered owner of the international trademark BOEHRINGER INGELHEIM, No. 221544.

The trademark was registered on 2 July 1959, in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32 of the International Nice Classification.

FACTUAL BACKGROUND

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 trademark, including in particular <boehringer-ingelheim.com> (since 1 September 1995).

No information is known about the Respondent, Ms. Carolina Rodrigus, who registered the disputed domain name <proboehringer-

ingelheim.com> on 20 November 2023.

The disputed domain name currently redirects to a parking page with commercial links.

PARTIES CONTENTIONS

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <proboehringer-ingelheim.com> and the Complainant's registered trademark 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 addition of a particle "-PRO" is less relevant and does alter the overall same impression the domain name and the registered trademark leave.

The Complainant also points out that the applicable Top-Level suffix ".com" 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 trademark 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 due to the fact that the disputed domain name a very similar version of the Complainant's registered trademark, the Respondent chose to register the disputed domain name intentionally in order to create a confusion as to the business origin affiliation or endorsement. Now, the disputed domain name resolves to a parking page with commercial links, thus according to the Complainant, the Respondent is currently acting in bad faith.

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 trademarks 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 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 evidence provided in support of them.

1.

The Panel finds that the disputed domain name <proboehringer-ingelheim.com> is visually and phonetically very similar with the Complainant's registered trademark "BOEHRINGER-INGELHEIM", given that apart from the Complainant's registered trademark it differs only in a preposition "-PRO" which gives an impression that the disputed domain name and the Complainant's registered trademark are somehow linked or connected rather than that the two signs belong to two different persons.

Moreover, the gTLD ".com", 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 trademark produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademark are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2.

According to the Complainant's contentions and evidence 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 <proboehringer-ingelheim.com> 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 trademark.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has 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 trademark and the way how the Respondent is using the disputed domain name, which is confusingly similar to the Complainant's trademark, the Panel finds that the Complainant intended to exploit the reputation of Complainant's trademark.

In fact, by choosing and registering the disputed domain name which represents almost a literal copy of the Complainant's well-known trademark and by placing a parking page with commercial links on it, the Respondent is likely to be engaged in non-legitimate 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 trademark, 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. proboehringer-ingelheim.com: Transferred

PANELLISTS

Name	Hana Císlerová
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DATE OF PANEL DECISION 2023-12-31

Publish the Decision
