Decision for dispute CAC-UDRP-105865

Case number	CAC-UDRP-105865
Time of filing	2023-12-14 09:02:15
Domain names	boehringer-ingelhiems.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	shelby company

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 is the owner of a large portfolio of trademarks including the wording “BOEHRINGER INGELHEIM” in several countries, such as the international trademark BOEHRINGER-INGELHEIM (Reg. No. 221544), registered since July 2, 1959, and duly renewed.

FACTUAL BACKGROUND

The Complainant, Boehringer Ingelheim Pharma GmbH & Co. KG, is the German company which is known as the global research-driven pharmaceutical enterprise (production of human pharmaceuticals, animal health products and biopharmaceuticals). The roots of this pharmaceutical business go back to 1885, when it was founded by Albert Boehringer (1861-1939) in Ingelheim am Rhein. The Complainant owns multiple domain names consisting in the wording “BOEHRINGER INGELHEIM”, such as <boehringer-ingelheim.com> registered since September 1, 1995.

The disputed domain name <boehrinqer-ingelhiems.com> was registered on December 7, 2023, and resolves to a parking page with commercial links. Besides, MX servers are configured which shows Respondent‘s intent to use this domain name in e-mail communication. The Respondent is „shelby company“ (Nelson Shelby) from New York.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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 agrees with the Complainant that the disputed domain name <boehrinqer-ingelhiems.com> is confusingly similar to the Complainant's trademark BOEHRINGER-INGELHEIM. Considering the renown of the Complainant and its trademark, it becomes evident that the obvious misspelling of the Complainant’s trademark BOEHRINGER-INGELHEIM (i.e. the substitution of the letter “G” by the letter “Q”, the reversal of the letter “E” and “I” and the addition of the letter “S”) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name (section 1.9 of WIPO Overview 3.0 states: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.”).

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademark in any manner, including in domain names. The Respondent's organization name does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent, when it registered the disputed domain name, meant nothing else except the Complainant's trademark BOEHRINGER-INGELHEIM (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to a parking page with commercial links. Therefore, the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademark for its own commercial gain, which is an evidence of bad faith use of the disputed domain name. Finally, MX servers are configured which suggests that the disputed domain name may be actively used for email purposes (see WIPO Overview 3.0, para. 3.4).

On these bases, the Panel concludes that the Respondent has both registered and used 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. **boehrinqer-ingelhiems.com**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-01-14

Publish the Decision