Decision for dispute CAC-UDRP-106128

Case number	CAC-UDRP-106128
Time of filing	2024-01-04 09:32:37
Domain names	boehringer-ingelhoim.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

Name	Zarnab Saleem

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 several trademarks consisting in the wording BOEHRINGER INGELHEIM in several countries, among them International trademark BOEHRINGER-INGELHEIM n°221544 in classes 01, 02, 03, 04, 05, 06, 16, 17, 19, 29, 30, 32 registered since July 2, 1959, and in effect.

FACTUAL BACKGROUND

The Complainant is a family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer (1861-1939) in Ingelheim am Rhein. Since then the Complainant has become a global research-driven pharmaceutical enterprise with roughly 53,000 employees. In 2022 alone, net sales of the Boehringer Ingelheim group of companies amounted to about EUR 24 billion. The disputed domain name has been registered on October 23, 2023 and resolves to an inactive website. The identity of the registrant was initially concealed.

PARTIES CONTENTIONS

The Complainant states, inter alia, that the disputed domain name <boehringer-ingelhoim.com> is confusingly similar to its trademark BOEHRINGER-INGELHEIM and its domain names associated. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <boehringer-ingelhoim.com> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant also contends that registering the domain name <boehringer-ingelhoim.com> with the misspelling of the trademark BOEHRINGER-INGELHEIM, was intentionally designed to be confusingly similar with the Complainant's trademark.

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 Complainant has established the fact that it has valid trademark rights for "BOEHRINGER-INGELHEIM".

The disputed domain name differs at the end of its second level domain only by the letter „o" instead of "e". This minor difference does not reduce the similarity to the trademark right of the Complainant in a relevant way. As a result, the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "Boehringer Ingelhoim" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Panel follows the assessment of the panel in the WIPO Case D2016-0021 Boehringer Ingelheim Pharma GmbH & Co.KG v. Kate Middleton that "Boehringer Ingelheim" is a well-known mark. Accordingly, the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

It is the consensus view of Panels (following the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>) that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint has been filed and the registrant's concealment of its identity and the implausibility of any good faith use to which the domain name may be put. Such circumstances are given in the present case.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with

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. **boehringer-ingelhoim.com**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-02-07

Publish the Decision