# Decision for dispute CAC-UDRP-106492

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| Case number | CAC-UDRP-106492 |
| Time of filing | 2024-04-29 09:57:29 |
| Domain names | boehringer-ingellhelm.com |

## Case administrator

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

## Complainant

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| Organization | Boehringer Ingelheim Pharma GmbH & Co.KG |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Name | Verni Gerdater |

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 large portfolio of trademarks including the wording BOEHRINGER INGELHEIM in several countries, including inter alia:

- International Registration No. 221544 BOEHRINGER-INGELHEIM, registered on 2 July 1959; and
- International Registration No. 568844 BOEHRINGER INGELHEIM, registered on 22 March 1991.

The Complainant also owns multiple domain names consisting of the words BOEHRINGER INGELHEIM, such as <boehringer-ingelheim.com> registered since 1 September 1995.

FACTUAL BACKGROUND

BOEHRINGER INGELHEIM, the Complainant, is a German family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in Ingelheim am Rhein. Since then, the Complainant has become a global research-driven pharmaceutical enterprise with around 53,500 employees. It is divided into two business areas: Human Pharma and Animal Health. In 2023, BOEHRINGER INGELHEIM achieved net sales of 25.6 billion Euro.

The Complainant owns a large portfolio of trademarks containing the words BOEHRINGER INGELHEIM in several countries as well

as multiple domain names containing the words BOEHRINGER INGELHEIM, such as <boehringer-ingelheim.com>.

The disputed domain name <boehringer-ingellhelm.com> was registered on April 24, 2024 and resolves to a parking page with commercial links. Additionally, MX servers have been configured.

## PARTIES CONTENTIONS

The Complainant contends 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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The Complainant has established rights in the name BOEHRINGER INGELHEIM. The disputed domain name <boehringer-ingellhelm.com> is found to be confusingly similar to the Complainant’s trademark and company name. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of:

a) disregarding the top-level suffix in the domain names (i.e. “.com") in the comparison; and

b) finding that the simple alteration of a trademark through common and almost undistinguishable typographical errors would by no means be considered sufficient to distinguish a domain name from a trademark. On the contrary, the substitution of the letter “l” by

the letter “L”, is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name. This established practice has been confirmed inter alia for the Complainant's name in the decision in CAC Case No. 102708, Boehringer Ingelheim Pharma GmbH & Co.KG v. stave co ltd <boehrinqer-ingelheim.com> where it was held that “It is the common view among UDRP panelists that a domain name which contains a common or obvious misspelling of a trademark normally will be found to be confusingly similar to such trademark, where the misspelled trademark remains the dominant or principal component of the domain name".

The disputed domain name is therefore found to be confusingly similar to the earlier rights in the name BOEHRINGER INGELHEIM and the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant and the Respondent have never had any previous relationship, nor has the Complainant ever granted the Respondent any rights to use the BOEHRINGER INGELHEIM trademark or confusingly similar variations thereof in any form, including in the disputed domain name. The disputed domain name is an obvious case of typosquatting of a well-known name. It resolved to a parking page with commercial links and MX servers have been configured. A bona fide offering or good faith use of the disputed domain name cannot be detected. There is no available evidence that the Respondent engages in, or has engaged in any activity or work, i.e., legitimate or fair use of the disputed domain name, that demonstrates a legitimate interest in the disputed domain name, so that there is nothing that could be interpreted as rights or legitimate interests of the Respondent.

The Respondent was given an opportunity to present arguments relating to rights or legitimate interests in the disputed domain name but has failed to do so. This behavior, coupled with the registration of a domain name spelled in a fashion typical for typosquatting, the use for a pay per click webpage and the configuration of MX servers in the obvious absence of use of the disputed domain name in connection with a bona fide offering of goods and services, demonstrates the Respondents’ absence of rights or legitimate interests in respect of the disputed domain name.

The Panel therefore concludes that the Respondent did not refute the Complainant’s prima facie case and has not established any rights or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith.

The well-known character of the BOEHRINGER INGELHEIM trademark has been confirmed in earlier decisions. The name is distinctive and well known in numerous countries, including the USA.

The Respondent has copied the Complainant’s trademark BOEHRINGER INGELHEIM in a fashion typical for typosquatting, has pointed it to a commercial website and has configured MX servers. All of these actions are a strong indication for an intentional diversion of internet traffic from the Complainant's websites to those of the Respondent by using a slightly amended version of the earlier right to create confusion in the minds of the users. Therefore, this registration can only be viewed as an attempt to exploit the goodwill vested in the trademark by attracting Internet users and confusing them to the extent that they would believe that a website connected to the disputed domain name offers the services of an entity that is affiliated to the Complainant.

No other reason for registering a domain name so closely resembling the well-known name BOEHRINGER INGELHEIM appears even remotely feasible. Any, including the most basic Google search in respect of the letter combination BOEHRINGER INGELHEIM and even for the almost identical letter combination filed by the Respondent would have yielded obvious references to the Complainant. There is no evidence at all of any actual or contemplated good-faith use of the disputed domain name.

The fact that the address given in the registration process as "789 church street, Newyork, NY, 10004, USA" is obviously false, as the numbers on Church Street in New York do not even go beyond numbers in the 300s, adds to the compelling indicators for the bad faith of the respondent.

The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under 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-ingellhelm.com**: Transferred

## PANELLISTS

| Name | **Udo Pfleghar B.A. (Melb.)** |
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DATE OF PANEL DECISION 2024-05-31

Publish the Decision