Decision for dispute CAC-UDRP-106736

Case number	CAC-UDRP-106736
Time of filing	2024-07-23 09:41:41
Domain names	boehringer-ingelheim.agency, boehringer-ingelheim.madrid

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	acueducto 78

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence showing that it is the owner of the following trademarks for the brand and corporate name BOEHRINGER INGELHEIM:

1. International trademark No. 221544 for a figurative mark, registered on 2 July 1959 in Nice Classification List classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32;
2. International trademark No. 568844 for a figurative mark, registered on 22 March 1991 in Nice Classification List classes 1, 2, 3, 4, 5, 9, 10, 16, 30 and 31.

Both international trademarks' basic registration was in Germany. The countries designated for their applicability vary between the two but assure extensive international protection, notably in relation to pharmaceuticals and medical apparatus. The Complainant claims that it has more trademarks but did not provide evidence of them.

The Complainant produced WHOIS registration evidence showing that it is the registrant of the domain name <boehringer-ingelheim.com> and has been since 1 September 1995. The Complainant claims that it is the registrant of further domain names but, again, without providing evidence of them.

The Respondent registered the disputed domain names <boehringer-ingelheim.agency> and <boehringer-ingelheim.madrid> on 13 March 2024 according to the Registrar Verification performed by the CAC Case Administrator.

FACTUAL BACKGROUND

The Complainant, Boehringer Ingelheim, is a pharmaceutical manufacturing group of companies. The still family-owned enterprise was founded in 1885 by Albert Boehringer in Ingelheim am Rhein, a small town alongside the Rhine river in Germany. Its products are directed toward the human health and veterinary markets. It is one of the top twenty pharmaceutical players in the world, is research-based, has a presence in some 130 countries with 54,500 employees globally, and achieved a turnover approaching €26 billion in 2023.

The Complainant submitted screenshot evidence from its website in respect of its presence in Mexico, the country in which the Respondent claims she has her address. It also supplied screenshots from the web pages to which the disputed domain names resolve. The format and colour arrangement of each are identical and both display the Complainant's name. On one, defibrillators are offered via large CTA (call to action) buttons with minimal text; on the other online "pharma" products are offered as well as defibrillators in the same manner. Price tariffs are indicated. The language employed is French on both pages.

Under its general powers, the Panel made a routine check of the postal address details that the Respondent gave upon registration of the disputed domain names, as determined by Registrar Verification. The address relates to a mainly residential area in the vicinity of Mexico City.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it for these reasons:

(1) The stems of the disputed domain names are identical to the Complainant's protected brand. Only the top level domain name technical suffixes <.agency> and <.madrid> are different;

(2) The Respondent is not (as indicated by a different name being given at registration) known as either of the disputed domain names, has no rights or legitimate interests in either of them, is not related in any way with the Complainant, conducts no activity or business with or for the Complainant, has received no authorization from the Complainant to use its protected brand, and is not using that brand in any way that might be regarded as fair but is instead using it illegitimately by means of the disputed domain names for the Respondent's own commercial ends; and

(3) It can in the circumstances be inferred that the Respondent registered and is using the disputed domain names with full knowledge of the Complainant's distinctive protected brand for illegitimate gain by exploiting the Complainant's reputation through means of what the Complainant contends are parking pages.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are identical or 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

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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.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular past ADR Panels' Decisions to which the Complainant referred. The Panel equally finds it unnecessary to consider a contention based on Decisions of some previous Panels regarding prima facie proof since this contention does not affect evaluation of the ample evidence that the Panel has before it in this proceeding.

PRINCIPAL REASONS FOR THE DECISION

This is a clear case of cybersquatting, where a business' protected brand has been registered, identically, in two domain names under different top level domains (TLDs), namely, <.agency> and <.madrid>. The purpose is clearly to achieve some form of financial gain, as is shown by the use to which the disputed domain names are put on the web pages to which they resolve. There is no question of the Respondent having any legitimate interest, let alone right, to stage such blatant brand impersonation. To the contrary, registration under the new generic TLD <.agency> in particular connotes a relationship that the Complainant expressly denies while, as to the other registration, the connotation that <.madrid> would suggest to an internet user is that of the local presence of the Complainant in that city. Moreover, the Panel finds it improbable that -- in the absence of any relationship with the Complainant -- the products purportedly on offer are actually those traded by the Complainant. Rather, the odd circumstance of use of French on both of the Respondent's web pages (and especially the <.madrid> one), in conjunction with the minimalist form of the offers made on them as well as with seemingly peculiar registration contact details in Mexico given for the Respondent, raises the prospect of a scam being perpetrated by the Respondent by virtue of the disputed domain names, even if the exact details of how this might proceed remain obscure from the Case File. Such a prospect reinforces already plain evidence of abusive registration and use of the disputed domain names so as make a finding of bad faith on the Respondent's part inescapable.

As to the contention made by the Complainant concerning the nature of the web pages to which the disputed domain names resolve, the Panel finds that they are not mere parking pages supplied by the hosting internet service provider, but, while crude, bear sufficient information to be considered the Respondent's web pages.

In light of the foregoing, the Panel FINDS that all the requirements of the Policy have been met in this proceeding and ORDERS the transfer of the disputed domain names to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boehringer-ingelheim.agency**: Transferred
2. **boehringer-ingelheim.madrid**: Transferred

PANELLISTS

Name	**Kevin Madders**

DATE OF PANEL DECISION 2024-08-30

Publish the Decision