Decision for dispute CAC-UDRP-106808

Case number	CAC-UDRP-106808
Time of filing	2024-08-21 09:45:38
Domain names	boehrimger-ingelheim.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	Inspired care

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, such as the international trademark BOEHRINGER-INGELHEIM n°221544, registered since July 2, 1959 and duly renewed, and the international trademark BOEHRINGER INGELHEIM n°568844 registered since March 22, 1991.

Furthermore, the Complainant owns multiple domain names consisting in the wording “BOEHRINGER INGELHEIM”, such as <boehringer-ingelheim.com> registered since September 1, 1995..

FACTUAL BACKGROUND

The Complainant is a German 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.

Ever since, BOEHRINGER INGELHEIM has become a global research-driven pharmaceutical enterprise and has 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 euros.

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The disputed domain name <**boehrimger-ingelheim.com**> was registered on August 15, 2024 and resolves to a parking page with commercial links. Besides, MX servers are configured.

The Complainant states that the disputed domain name <**boehrimger-ingelheim.com**> is confusingly similar to its trademark BOEHRINGER-INGELHEIM and its domain names associated.

The obvious misspelling of the Complainant’s trademark BOEHRINGER-INGELHEIM, i.e. the substitution of the letter “N” by the letter “M” is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusing similar to the Complainant’s trademark.

Furthermore, the Complainant contends that the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The Complainant contends that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <**boehrimger-ingelheim.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.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark BOEHRINGER-INGELHEIM, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark BOEHRINGER-INGELHEIM. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

The disputed domain name resolves to a parking page with commercial links, which is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Given the distinctiveness of the Complainant's trademark and its reputation, especially in the United Kingdom, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark.

Therefore, by registering the domain name <**boehrimger-ingelheim.com**> with the misspelling of the trademark BOEHRINGER-INGELHEIM, the Complainant can state that this practical was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP Panels have seen such actions as evidence of bad faith.

Furthermore, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.

Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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. Summary of the Complainant´s contentions is above in Factual background section of this decision.

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

A. **Identical or Confusingly Similar Domain Name:**

The disputed domain name <boehrimger-ingelheim.com> is confusingly similar to the Complainant's registered trademark "BOEHRINGER INGELHEIM." The only difference is the substitution of the letter "N" for "M" in "BOEHRINGER." Such minor misspellings are commonly recognized as typosquatting, a practice intended to exploit typographical errors by users. The addition of the ".COM" top-level domain (TLD) is irrelevant to the confusing similarity analysis (see WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.). Therefore, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark.

B. **Respondent's Lack of Rights or Legitimate Interests:**

The Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent is not identified by the disputed domain name, nor has the Complainant authorized any use of its trademark. The Respondent does not appear to be commonly known by the disputed domain name, based on the WHOIS records, and the website resolves to a parking page containing commercial links.

Past UDRP decisions, such as Forum Case No. 970871 (Vance Int’l, Inc. v. Abend), have held that domain names resolving to pay-per-click websites do not represent a bona fide offering of goods or services. Furthermore, typosquatting alone serves as evidence that the Respondent lacks rights or legitimate interests (see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Herns).

Given the Respondent’s lack of legitimate use and the nature of the misspelling, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. **Bad Faith Registration and Use:**

The Complainant asserts that the Respondent registered and is using the disputed domain name in bad faith. The Complainant’s trademark is distinctive and globally recognized, making it highly unlikely that the Respondent was unaware of the Complainant's rights at the time of registration. The misspelling of "BOEHRINGER" clearly indicates an intention to create confusion and exploit the reputation of the Complainant's mark.

Moreover, the disputed domain resolves to a parking page with commercial links, which constitutes bad faith use under UDRP jurisprudence (see WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC). Additionally, the activation of MX records suggests a possible use for malicious purposes, such as phishing or email scams, which further indicates bad faith (see CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono).

In light of the foregoing, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith.

For the reasons outlined above, the Panel orders that the disputed domain name be **transferred to the Complainant**.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boehrimger-ingelheim.com**: Transferred

PANELLISTS

Name	**Jan Schnedler**

DATE OF PANEL DECISION 2024-09-14

Publish the Decision