

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim Pharma GmbH & co.KG v. Eric Olivárez
Case No. D2024-5317

1. The Parties

The Complainant is Boehringer Ingelheim Pharma GmbH & co.KG, Germany, represented by Nameshield, France.

The Respondent is Eric Olivárez, Spain.

2. The Domain Name and Registrar

The disputed domain name <boehringer-ingelheiml.com> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 27, 2024. On December 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 30, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2025.

The Center appointed Alissia Shchichka as the sole panelist in this matter on February 4, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is Boehringer Ingelheim Pharma GmbH & co.KG, a family-owned pharmaceutical company founded in 1885 by Albert Boehringer in Ingelheim am Rhein, Germany. Today, it operates globally with approximately 53,500 employees, focusing on Human Pharma and Animal Health. In 2023, the Complainant reported net sales of about EUR 25.6 billion.

The Complainant has evidenced to be the registered owner of numerous trademarks worldwide relating to its trademarks BOEHRINGER-INGELHEIM including, but not limited, to the following:

- International Trademark Registration No. 221544, designating numerous countries, for the word mark BOEHRINGER-INGELHEIM., registered on July 2, 1959, in classes 01, 02, 03, 04, 05, 06, 16, 17, 19, 29, 30, and 32.
- International Trademark Registration No. 568844, designating numerous countries, for the word mark BOEHRINGER-INGELHEIM., registered on March 22, 1991, in classes 01, 02, 03, 04, 05, 09, 10, 16, 30, and 31.

Additionally, the Complainant owns multiple domain names featuring BOEHRINGER INGELHEIM, notably <boehringer-ingelheim.com>, registered since September 1, 1995.

The aforementioned trademarks and domain name were registered before the disputed domain name, which was registered on December 25, 2024. The disputed domain name resolves to an inactive web page.

According to the disclosed Whois information, the Respondent of the disputed domain name is located in Spain.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant asserts that the disputed domain name is confusingly similar to its BOEHRINGER-INGELHEIM trademark, as it fully incorporates the trademark with the minor addition of the letter "L" at the end. This misspelling is characteristic of typosquatting and does not prevent a finding of confusing similarity.

The Complainant further asserts that the Respondent lacks rights or legitimate interests in the disputed domain name for several reasons. First, the Respondent is not commonly known by the disputed domain name and has not acquired any trademark rights associated with it. Second, the Respondent is not affiliated with, licensed by, or otherwise authorized to use the BOEHRINGER-INGELHEIM trademark in connection with the disputed domain name. Third, the disputed domain name appears to be a typographical variation of the Complainant's trademark, likely intended to capitalize on potential Internet user errors. Finally, the Respondent has neither used nor demonstrated any preparations to use the disputed domain name in connection with a bona fide offering of goods or services.

Finally, the Complainant asserts that the Respondent has registered and is using the disputed domain name in bad faith for the following reasons. First, the Respondent had actual or constructive knowledge of the Complainant's trademark at the time of registering and using the disputed domain name, given the distinctiveness and reputation of the Complainant's trademark. Second, the disputed domain name incorporates an intentional misspelling of the Complainant's trademark, indicating that the Respondent has intentionally sought to create a likelihood of confusion with the Complainant's trademark. Third, the disputed domain name resolves to an inactive page, and the Respondent has not demonstrated any active use since its registration. Prior UDRP panels have held that the passive holding of a domain name incorporating a famous mark can indicate bad faith. Finally, the presence of MX records for the disputed domain name suggests potential use for email purposes, which could facilitate fraudulent activities, further indicating bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Indeed, the Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the BOEHRINGER-INGELHEIM trademark or to seek registration of any domain name incorporating the trademark. The Respondent is also not known to be associated with the BOEHRINGER-INGELHEIM trademark, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

The Panel also notes that the composition of the disputed domain name, which merely adds the letter “l” to the Complainant’s trademark and domain name <boehringer-ingelheim.com>, is inherently misleading and thus cannot constitute fair use since it effectively impersonates the Complainant. [WIPO Overview 3.0](#), sections 1.9 and 2.5.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In this instance, it appears that the Respondent deliberately registered a disputed domain name nearly identical to the BOEHRINGER-INGELHEIM trademark, save for the additional letter “l”. Given the inherently distinctive nature of the Complainant’s trademark, such a name is unlikely to be chosen by a legitimate trader unless there is an intention to create an impression of association with the Complainant.

Furthermore, the typosquatting nature of the disputed domain name reinforces the Panel’s conclusion that the Respondent was aware of the Complainant and its trademark at the time of registration. Previous panels have found that the mere registration of a domain name confusingly similar to a famous trademark by an

unaffiliated entity can, by itself, create a presumption of bad faith - particularly when the domain name contains a typographical variation. [WIPO Overview 3.0](#), section 3.2.1.

Upon reviewing the available evidence, the Panel concludes that the current non-use of the disputed domain name does not preclude a finding of bad faith, as established in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation and the degree of distinctiveness of the Complainant's mark, as well as the composition of the disputed domain name, and finds that in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In light of these circumstances, the Panel finds that the Respondent's registration and use of the disputed domain name constitute bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <boehringer-ingelheiml.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: February 18, 2025.