

ADMINISTRATIVE PANEL DECISION

BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG v. cui long
Case No. DQA2023-0002

1. The Parties

Complainant is BOEHRINGER INGELHEIM PHARMA GMBH & CO.KG, represented by Nameshield.

Respondent is cui long, China.

2. The Domain Name and Registrar

The disputed domain name <boehringer-ingelheim.qa> (the “Domain Name”) is registered with Domgate (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2023. On January 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Qatar Domains Registry Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Qatar Domains Registry Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Qatar Domains Registry Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified Respondent of the Complaint, and the proceedings commenced on January 15, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was February 4, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 6, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 14, 2024. 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

Complainant alleges (on its website) that it is one of the top 20 firms in the pharmaceutical industry. According to the Complaint:

“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. Ever since, BOEHRINGER INGELHEIM has become a global research-driven pharmaceutical enterprise and has today over 53,000 employees. The three business areas of BOEHRINGER INGELHEIM are Human Pharma, Animal Health and Biopharmaceutical Contract Manufacturing. In 2022, net sales of the BOEHRINGER INGELHEIM group amounted to about 24.1 billion euros.”

Complainant holds various international trademark registrations, including WIPO Reg. No. 221544 for BOEHRINGER-INGELHEIM, registered on July 2, 1959 in connection with, among other things, pharmaceuticals and chemical products, and WIPO Reg. No. 568844 for BOEHRINGER INGELHEIM, registered on March 22, 1991 in connection with, among other things, pharmaceuticals and chemical products.

Complainant has owned the domain name <boehringer-ingelheim.com> since September 1, 1995, and Complainant uses that domain name to host its commercial website.

The Domain Name was registered on December 5, 2023. The Domain Name currently resolves to an error page. According to a screenshot annexed to the Complaint, the Domain Name at one point resolved to a landing page which stated that the Domain name was for sale, and invited bids for the Domain Name.

5. Parties' Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 3(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel finds that Complainant holds rights in the trademarks BOEHRINGER-INGELHEIM and BOEHRINGER INGELHEIM through registration and use demonstrated in the record. The Panel finds that the Domain Name is identical to the former mark.

Complainant has established Policy paragraph 3(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 3(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward to dispute Complainant's allegations or articulate some bona fide basis for registering the Domain Name. On the undisputed record, the Panel concludes that Respondent registered the Domain Name in order to sell it at a profit to Complainant or another party. Respondent's awareness of Complainant's mark cannot be seriously questioned, as the combination of the words "Boehringer" and "Ingelheim" cannot be put down to coincidence. The undisputed record in this case shows that, at some point in time, Respondent had offered the Domain Name for sale, and invited bids from prospective purchasers. Such conduct plainly does not give rise to rights or legitimate interests under the Policy.

Complainant has established Policy paragraph 3(a)(ii).

C. Registered or Used in Bad Faith

Paragraph 3(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates here its discussion above in section 6B. The Panel finds, on this undisputed record and on a balance of probabilities, that Respondent had Complainant and its BOEHRINGER-INGELHEIM mark in mind when registering the Domain Name. As discussed above, the Panel concludes that Respondent targeted Complainant's mark in order to sell the Domain Name for profit. This constitutes bad faith registration and use under the above-quoted Policy paragraph 3(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 3(a)(iii).

7. Decision

For the foregoing reasons, in accordance with paragraphs 3(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <boehringer-ingelheim.qa> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: February 16, 2024