

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim Pharma Gmbh & Co. Kg v. Linda Neubacher
Case No. D2023-1151

1. The Parties

The Complainant is Boehringer Ingelheim Pharma Gmbh & Co. Kg, Germany, represented by Nameshield, France.

The Respondent is Linda Neubacher, United States of America.

2. The Domain Name and Registrar

The disputed domain name <boehringer-ingelheim.cloud> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2023. On March 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 15, 2023, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2023, 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 March 21, 2023.

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 March 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 24, 2023.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on May 4, 2023. 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 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 about roughly 52,000 employees. The three business areas of BOEHRINGER INGELHEIM are pharmaceuticals, animal health and biopharmaceuticals. In 2021, net sales of the BOEHRINGER INGELHEIM group amounted to about EUR 20.6 billion.

The Complainant holds registrations that comprise the words “Boehringer Ingelheim” in numerous jurisdictions around the world, including, among others, the following trademark registrations:

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

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

The disputed domain name <boehringer-ingelheim.cloud> was registered on March 10, 2023 and resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is identical to its trademark BOEHRINGER-INGELHEIM.

The disputed domain name consists solely of the Complainant's trademark with the added suffix “. cloud”.

The Complainant contends that the addition of the generic Top-Level Domain (“gTLD”) suffix “. cloud” does not add sufficient distinctiveness so as to avoid a finding of similarity between the disputed domain name and the Complainant's BOEHRINGER-INGELHEIM trademark. *Citing Axis AB v. Roger Ralston, Directview Holdings, Inc.* WIPO Case No. [D2018-2058](#) (“The disputed domain name <axis.guru> reproduces the Complainant's trademark AXIS without alteration.....Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ('gTLD') (e.g., '.com', '.info', '.org') may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name.”)

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests.

The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including its trademarks. The Complainant submits that the disputed domain name has been registered and is being used in bad faith.

The Complainant further alleges that the disputed domain name was registered in bad faith arguing that the disputed domain name was registered to knowingly and willfully capitalize on the goodwill associated with Complainant's rights in the BOEHRINGER-INGELHEIM trademark.

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

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove that:

- (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 was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

A. Identical or Confusingly Similar

The Complainant has provided clear, convincing, and uncontested evidence of its rights in the BOEHRINGER-INGELHEIM trademark, established by its ownership of the trademark registrations described above.

The disputed domain name is composed of the Complainant's BOEHRINGER-INGELHEIM trademark in its entirety.

For the purposes of evaluating confusing similarity between the disputed domain name and the Complainant's mark, the gTLD ".cloud" extension may be ignored because it would be recognized as a technical necessity for a domain name.

This Panel finds therefore that the disputed domain name is identical to the BOEHRINGER-INGELHEIM mark in which the Complainant has rights.

Therefore, the Panel finds the first element of the Policy has been met.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant must demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

In *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), the panel stated that: "in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain

name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent.”

The Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

Furthermore, the Panel finds that the disputed domain name, which incorporates the Complainant’s trademark in its entirety, carries a high risk of implied affiliation with the Complainant.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has been met

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts, and agrees with the Complainant’s contention that the disputed domain name was registered and is used in bad faith.

The Panel finds that the disputed domain name was registered and is used in bad faith because it is obvious that the Respondent had knowledge of the Complainant and its trademark at the time it registered the disputed domain name. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark, can by itself create a presumption of bad faith. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 3.1.4.

The fact that the disputed domain name is inactive would not prevent a finding of bad faith, noting the distinctiveness and fame of the Complainant’s mark, the fact that the Respondent has not denied, or even responded to the assertions of bad faith made by the Complainant’s in this proceeding and, under the circumstances of the case, the implausibility of any good faith use to which the disputed domain name may be put.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and used the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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-ingelheim.cloud> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: May 18, 2023