

## **ADMINISTRATIVE PANEL DECISION**

Boehringer Ingelheim Pharma GmbH & Co.KG v. Ryan Ernest  
Case No. D2024-1771

### **1. The Parties**

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

The Respondent is Ryan Ernest, France.

### **2. The Domain Name and Registrar**

The disputed domain name <boehringer-ingelheim-france.com> is registered with Combell NV (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 26, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 26, 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 May 8, 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 May 13, 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 May 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 5, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on June 10, 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**

The Complainant is a family-owned pharmaceutical group of companies founded in 1885 by Albert Boehringer in Ingelheim am Rhein. It is divided into two business areas: Human Pharma and Animal Health. The Complainant claims to have 53,500 employees and that in 2023 the net sales of the Boehringer Ingelheim group amounted to about 25.6 billion euros.

The Complainant owns a large number of trademarks BOEHRINGER INGELHEIM in several jurisdictions, including the following:

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

Also, the Complainant owns several domain names which include the trademark BOEHRINGER INGELHEIM, such as <boehringer-ingelheim.com>, registered on September 1, 1995.

The disputed domain name was registered on March 23, 2024, and resolves to a parking page. The Complainant provided evidence that it has been used in a phishing scheme.

#### **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.

Notably, the Complainant contends that the disputed domain name was registered in the name of the Complainant's French subsidiary Boehringer-Ingelheim France. However, the Respondent or its email address are not affiliated with the Complainant or its subsidiary in any way. Therefore, the Complainant asserts that the Respondent uses the identity of the Complainant's subsidiary to increase the likelihood of confusion with the Complainant.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOEHRINGER-INGELHEIM.

The Complainant asserts that the Respondent registered and uses the disputed domain name in bad faith; to pass itself off as one of the Complainant's employees, in order to receive undue deliveries of goods.

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 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.

Although the addition of other terms here, "france", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#). Similarly, the hyphen between the words "boehringer-ingelheim" and "france" is clearly insufficient to avoid confusion between the disputed domain name and the Complainant's trademark BOEHRINGER-INGELHEIM.

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. 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.

Panels have held that the use of a domain name for illegal activity, here claimed as applicable to this case: phishing, impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark BOEHRINGER-INGELHEIM when it registered the disputed domain name on March 23, 2024. By that time, the Complainant had long ago registered and intensely used the famous trademark BOEHRINGER-INGELHEIM, in many jurisdictions, including France where the Respondent is supposed to be located.

The Panel also finds that by registering the disputed domain name which includes the Complainant's trademark BOEHRINGER-INGELHEIM in its entirety, the Respondent was targeting the Complainant and its business. The addition of the geographical term "france" only contributes to reinforce the confusion among Internet users and leads them to think that the Respondent's website belongs to or is endorsed by the Complainant or its French subsidiary with the intention to capitalize on the fame of the Complainant's trademark for its own benefit.

Panels have held that the use of a domain name for illegal activity here claimed as applicable to this case: phishing, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Further, the fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name, including the trademark BOEHRINGER-INGELHEIM in its entirety, and the passing off as one of the Complainant's employees via a phishing email scheme, are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and uses the disputed domain name in 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-ingelheim-france.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: June 18, 2024