

## **ADMINISTRATIVE PANEL DECISION**

**Boehringer Ingelheim Pharma GMBH & CO. KG v. Yazmin Sánchez Tovón**  
Case No. D2024-3471

### **1. The Parties**

The Complainant is Boehringer Ingelheim Pharma GMBH & CO. KG, Germany, represented by Nameshield, France.

The Respondent is Yazmin Sánchez Tovón, Mexico.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 26, 2024. On August 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 27, 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 August 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 August 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 September 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2024.

The Center appointed Peter Kružliak, as the sole panelist in this matter on October 1, 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 global pharmaceutical enterprise based in Germany, the roots of which go back to 1885, with consolidated group revenue of EUR 25,6 billion in 2023. The sign BOEHRINGER INGELHEIM comes from the surname of the founder Albert Boehringer (1861-1939) and the seat of his business in Ingelheim am Rhein, Germany.

The Complainant is the owner of inter alia the following trademark registrations containing word elements BOEHRINGER INGELHEIM:

- International trademark registration BOEHRINGER-INGELHEIM. (word), number 221544, registered on July 2, 1959, for classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30, and 32 protected in the following countries: Austria, Benelux (Belgium, Netherlands (Kingdom of the), Luxembourg), Germany, Egypt, France, Hungary, Italy, Liechtenstein, Monaco, Montenegro, Morocco, Portugal, San Marino, Serbia, Spain, Switzerland; and
- International trademark registration BOEHRINGER INGELHEIM (word), number 568844, registered on March 22, 1991, for classes 1, 2, 3, 4, 5, 9, 10, 16, 30, and 31 protected in various countries.

The Complainant registered the domain name <boehringer-ingelheim.com> on September 1, 1995. Furthermore, the Complainant also indicated several decisions issued by panels confirming the reputation and well-known character of the aforementioned Complainant's trademarks.

The Respondent is an individual from Mexico. The disputed domain name <boehringer-ingelheim.store> was created on August 21, 2024, and based on available record it resolved to a parking website with Mail Exchange ("MX") email servers configured.

#### 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 is identical to its trademark BOEHRINGER-INGELHEIM and the addition of the generic Top-Level Domain ("gTLD") suffix does not change the overall impression of the designation as being connected to the Complainant's trademark.

Furthermore, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name since:

- the Respondent is not identified in the Whois database as the disputed domain name;
- the Respondent is not affiliated with nor authorized by the Complainant in any way, 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 trademarks; and
- the disputed domain name resolves to a parking page, thus the Respondent did not make any use of the disputed domain name since its registration, and it confirms that the Respondent has no demonstrable plans to use it.

And finally, the Complainant submits that the disputed domain name has been registered and is being used in bad faith arguing that:

- the disputed domain name is identical to the BOEHRINGER-INGELHEIM trademark and given the distinctiveness of the Complainant's trademark and its reputation, especially in Mexico, where the Complainant operates, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark;
- the incorporation of famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use; and
- the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes, which 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.

## **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 the BOEHRINGER-INGELHEIM. trademark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the BOEHRINGER-INGELHEIM. trademark is reproduced within the disputed domain name with the gTLD being disregarded in determining identity and confusing similarity. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name <boehringer-ingelheim.store> is identical to the BOEHRINGER-INGELHEIM. trademark 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. 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.

Per the available record the disputed domain name resolves to parking website, which cannot be considered according to the Panel as bona fide offering of goods or services considering the circumstances, and the Respondent did not provide any evidence of demonstrable preparations for such use.

Furthermore, the available record does not show any trademark registrations or earlier relevant rights of the Respondent corresponding to the disputed domain name, nor any other fact that the Respondent is commonly known by the disputed domain name.

Finally, there is no evidence to suggest that the use of the disputed domain name by the Respondent is legitimate noncommercial or fair use. The disputed domain name is identical to the Complainant's BOEHRINGER-INGELHEIM. trademark, thus the disputed domain name carries a high risk of implied affiliation with the Complainant, which prevents finding of any legitimate noncommercial or fair use on the part of the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel first notes that the Complainant's trademarks containing the "Boehringer Ingelheim" word elements are registered in many jurisdictions globally, enjoy reputation and are globally well-known or famous, as recognized by numerous earlier panel decisions (see *Boehringer Ingelheim Pharma GmbH & Co.KG v. 刘海斌 (liu hai bin)*, WIPO Case No. [D2024-2964](#); *Boehringer Ingelheim Pharma GmbH & Co.KG v. Ryan Ernest*, WIPO Case No. [D2024-1771](#); *Boehringer Ingelheim Pharma GmbH & Co. KG v. 上海大蒙文化传播有限公司 (Shang Hai Da Meng Wen Hua Chuan Bo You Xian Gong Si)*, WIPO Case No. [D2023-2669](#); *Boehringer Ingelheim Pharma GmbH & CO.KG. v. Mike John*, WIPO Case No. [D2023-1681](#); *Boehringer Ingelheim Pharma GmbH & Co. KG v. Marius Gaur*, WIPO Case No. [D2019-0208](#); and *Boehringer Ingelheim Pharma GmbH & Co.KG v. Kate Middleton*, WIPO Case No. [D2016-0021](#)), thus, it does not seem conceivable that the Respondent registered the disputed domain name without knowledge of the Complainant's trademarks. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4. As a result, Panel is of the opinion that the Respondent has registered the disputed domain name in bad faith.

At the time of filing of the Complaint, the disputed domain name resolved to a parking page. Having reviewed the available record, the Panel notes (i) the distinctiveness and (ii) the above described reputation of the Complainant's trademarks, (iii) their well-known character and the composition of the disputed domain name, as well as the failure of the Respondent to (a) file a response or (b) provide any evidence of actual or contemplated good-faith use 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. Panel also points out in this regard that the configured MX email server for the disputed domain name creates a real or implied ongoing threat to the Complainant, since the disputed domain name, even when resolved to a parking page, may be used by the Respondent to mislead customers that an email sent from the disputed domain name comes from the Complainant, possibly even for fraudulent activities.

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.store> be transferred to the Complainant.

*/Peter Kružliak/*

**Peter Kružliak**

Sole Panelist

Date: October 15, 2024