

Decision for dispute CAC-UDRP-103498

Case number	CAC-UDRP-103498
Time of filing	2021-01-08 10:39:29
Domain names	boehringerengelheimpetrbates.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Organization	Fundacion Comercio Electronico
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of many trademarks consisting of the terms BOEHRINGER INGELHEIM in several classes and in numerous countries all over the world. Reference is made to the international trademark BOEHRINGER-INGELHEIM n° 221544, registered since 2 July 1959; and international trademark BOEHRINGER INGELHEIM n° 568844 registered since 22 March 1991.

These trademark registrations predate the registration of the disputed domain name.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

1. The Complainant is pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in the German city of Ingelheim am Rhein. It is one of the world's 20 leading pharmaceutical companies, with roughly 51,000 employees worldwide.

2. It results from the registrar verification that the current registrant registered the disputed domain name on 18 December 2020.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to a parking page with commercial links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, paragraph 4(a)(i) of the Policy.

The Complainant's registered trademark BOEHRINGER INGELHEIM is identically included in the disputed domain name. It is acknowledged that where a trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity under the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, at section 1.8).

It is the view of this Panel that the combination of the trademark with the terms "pet rebates" does not avoid the confusing similarity between the disputed domain name and the Complainant's trademark. These terms are the evident misspelling of "pet rebates" and therefore a direct reference to the Complainant's website under <boehringerengelheimpetrebates.com> used by the Complainant to offer rebates on pet health products.

2.

In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

In particular, the Panel notes that there is no evidence in the record showing could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy. In addition, it results from the Complainant's uncontested evidence that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner. Furthermore, use of the disputed domain name for webpages with commercial content excludes any non-commercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset. Finally,

said use for commercial web content does - in the Panel's view - not represent a bona fide offering (pursuant to paragraph 4(c) (i) of the Policy). This use rather capitalizes on the reputation and goodwill of the Complainant's marks.

3.

Finally, the Panel finds that the disputed domain name has also been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has registered the disputed domain name, which fully includes the Complainant's trademark, namely BOEHRINGER INGELHEIM, in order to intentionally attempt to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy). Considering the fact that the disputed domain name identically includes that trademark suggests the Respondent's awareness of the trademark. Finally, the Panel also considered the following additional relevant factors: (i) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (ii) the Respondent hiding his identity behind a privacy shield, (iii) the implausibility of any good faith use to which the disputed domain name may be put and (iv) the fact that the Respondent is engaged in a pattern of conduct, since it has been involved as a Respondent in prior cases which have been initiated by the Complainant in the present proceedings and by other complainants and which lead to domain name transfers.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BOEHRINGERINGELHEIMPETRBATES.COM**: Transferred

PANELLISTS

Name	Dr. Tobias Malte Müller
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DATE OF PANEL DECISION 2021-02-15

Publish the Decision
