

Decision for dispute CAC-UDRP-103596

Case number	CAC-UDRP-103596
Time of filing	2021-02-22 09:09:23
Domain names	boehringeringelheimpetrebatres.com, boehringeringelheimpretrebates.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization Nameshield (Enora Millocheau)

Respondent

Organization Fundacion Comercio Electronico

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the registrant of the trademarks:

- BOEHRINGER-INGELHEIM (word), International (WIPO) Trademark, registration date July 2, 1959, trademark no. 221544, registered for goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 29, 29, 30 and 32; and
- BOEHRINGER-INGELHEIM (stylised letters), International (WIPO) Trademark, registration date March 22, 1991, trademark no. 568844, registered for goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 29, 29, 30 and 32.

FACTUAL BACKGROUND

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

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. The Complainant has become a global research-driven pharmaceutical enterprise with about 51,000 employees. Its three business areas are human pharmaceuticals, animal health and biopharmaceuticals. In 2019, net sales of the Complainant's group amounted to about EUR 19 billion.

The Complainant has rights in the internationally registered BOEHRINGER-INGELHEIM and BOEHRINGER INGELHEIM marks and they are famous.

On August 14, 2019, the Complainant registered the domain name <bookshringeringelheimpetrebates.com>, which it uses for one of its websites.

On February 16, 2021 the Respondent registered the disputed domain names <bookhringeringelheimpetrebatres.com> and <bokhringeringelheimpretrebates.com>. They resolve 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 names are 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 names (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 names have been registered and are 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

The Complainant has shown that it has rights in the BOEHRINGER-INGELHEIM and BOEHRINGER INGELHEIM marks. The Respondent's <box

Soeringeringelheimpetrebatres.com> and

Soeringeringelheimpretrebates.com> domain names are confusingly similar to Complainant's BOEHRINGER-INGELHEIM and BOEHRINGER INGELHEIM marks because they both add a misspelling of the generic words "pet rebates" to the marks, in one instance omitting the hyphen from the mark. These differences are insufficient to distinguish the domain names from the marks. The inconsequential generic top-level domain ".com" may be ignored.

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the respondent, shall demonstrate rights to or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy, i.e.

- (i) before any notice to the respondent of the dispute, the use by the respondent 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) the respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The <box or the continger of the continger of the Respondent on February 16, 2021. They resolve to parked pages displaying commercial links. On August 5, 2020, the Respondent was found to have registered and used in bad faith the confusingly similar domain name

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These circumstances constitute a prima facie case that the Respondent lacks rights and legitimate interests in the

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of a domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:
(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. BOEHRINGERINGELHEIMPETREBATRES.COM: Transferred
- 2. BOEHRINGERINGELHEIMPRETREBATES.COM: Transferred

PANELLISTS

Name Mr. Alan Lawrence Limbury

DATE OF PANEL DECISION 2021-04-18

Publish the Decision