Decision for dispute CAC-UDRP-102492

Case number	CAC-UDRP-102492
Time of filing	2019-05-17 09:53:18
Domain names	boehringer-ec.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	loremEc

OTHER LEGAL PROCEEDINGS

The Panel is not aware of pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns a portfolio of registered trademarks, including the word mark “BOEHRINGER”, in several countries, including the international trademark BOEHRINGER, with registration number 799761 of December 12, 2002, which designates many jurisdictions, but not Ecuador. This trademark is referred to as the "Trademark".

FACTUAL BACKGROUND

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

1. The Complainant is a family-owned pharmaceutical group of companies with roots going back to 1885 has today about roughly 50,000 employees, with the group’s net sales of about EUR 17.5 billion in 2018.

2. The date of registration of the disputed domain name was May 8, 2019.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolved to a parking page. At the time of writing the decision the Panel found that the disputed domain name resolves to a website at <absolute.boehringer-ec.com> which shows the Trademark and a login screen.

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

a. The disputed domain name consists of the Trademark, with the addition of “-ec” at the end, apparently representing the country code of the Respondent's country of establishment, Ecuador. The generic top level domain ("gTLD") ".com" may be disregarded in the assessment of the similarity of the disputed domain name to the Trademark. The Panel finds that the addition of the geographical indicator "-ec" to the Trademark does not take away the similarity between the disputed domain name and the Trademark so that the disputed domain name is confusingly similar to the Trademark pursuant to paragraph 4(a)(i) of the Policy.

b. The Panel is satisfied that the Respondent has not been authorized to use the Trademark in the disputed domain name. The Panel further finds that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is it making a legitimate non-commercial or fair use of the disputed domain name, as the disputed domain name merely resolved to a parking site, and presently resolves to a login page showing the Complainant's combined word and device mark "Boehringer Ingelheim", possibly for the purpose of obtaining Internet users' personal information (phishing). The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

c. The Panel is satisfied that the disputed domain name was registered in bad faith as the disputed domain name was undisputedly selected by the Respondent as being confusingly similar to the Trademark, which as such was very distinctive when the Respondent registered the disputed domain name. The Panel is also of the opinion that the disputed domain was used in bad faith as the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Trademark. Although not put forward by the Complainant, this is supported by the disputed domain name's present use which seems like phishing, which, if true, further evidence of the Respondent's use of the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGER-EC.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2019-06-27

Publish the Decision