Decision for dispute CAC-UDRP-102945

Case number	CAC-UDRP-102945
Time of filing	2020-02-28 11:33:23
Domain names	boehringeringelheimpertrebates.com, boehringeringelheimpetrabates.com, boehringeringelheimpeterebates.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

Complainant owns various trademarks including the terms “BOEHRINGER” and “INGELHEIM” in several countries, including the international trademark no. 568844 “BOEHRINGER INGELHEIM” (word), registered since March 22nd, 1991, which is protected in numerous countries and covers various goods in international classes 01, 02, 03, 04, 05, 09, 10, 16, 30, and 31.

All disputed domain names were registered on February 24th, 2020, i.e. the Complainant’s international trademark registrations mentioned above predate the registration of the disputed domain names.

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. Ever since, BOEHRINGER INGELHEIM has become a global research-driven pharmaceutical enterprise and has today about roughly 50,000 employees. The three business areas of BOEHRINGER INGELHEIM are human pharmaceuticals, animal health and biopharmaceuticals. In 2018, net sales of the

BOEHRINGER INGELHEIM group amounted to about EUR 17.5 billion.

The Complainant uses the (undisputed) domain name <boehringeringelheimpetrebates.com> for a website offering rebates on the Complainant's pet health products.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names. 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 "BOEHRINGER(-)INGELHEIM" trademark, or apply for registration of the disputed domain names by the Complainant.

The disputed domain names redirect to a parking page with commercial links both related and unrelated to the Complainant.

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 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 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 only difference between the Complainant's trademark cited above and the disputed domain names are

-- the space between "BOEHRINGER" and "INGELHEIM" (which for technical reasons cannot be represented in an internet domain name),

-- the respective misspellings "PERTREBATES", "PETRABATES", and "PETEREBATES" of the descriptive term "pet rebates", and

-- the suffix ".com" (which is also owed to the technical requirements of the domain name system).

This renders the Complainant's trademark and the disputed domain names confusingly similar. The Panel agrees with the findings in the very similar CAC case no. 102871 between the same Parties (Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico) regarding the similar domain name <boehringeringlheimpetrebates.com>: "As the Complainant is active in manufacturing and distributing animal health products, and indeed operates a website at the domain name <BOEHRINGERINGELHEIMPETREBATES.COM>, prior to the registration of the disputed domain name, through which it offers rebates (retrospective discounts) to customers who have bought animal (pet) health products, it is not

difficult to find that the additional text is 'descriptive' of activities associated with the Complainant including those carried out under its trade marks.”).

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names, nor is commonly known under the disputed domain names. This prima facie evidence was not challenged by the Respondent.

The Panel also finds that the Complainant successfully submitted prima facie evidence that the Respondent was aware of Complainant's rights in the well-known and highly distinctive designation “BOEHRINGER INGELHEIM” when he registered the disputed domain names. Again, this prima facie evidence was not challenged by the Respondent, which supports the conclusion that the domain name was registered in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Respondent’s use of the disputed domain names for a parking page with paid advertising links demonstrates that the Respondent 'intentionally attempted to attract, for commercial gain, Internet users to its website', by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site (paragraph 4(b)(iv) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGERINGELHEIMPERTREBATES.COM**: Transferred
2. **BOEHRINGERINGELHEIMPETRABATES.COM**: Transferred
3. **BOEHRINGERINGELHEIMPETEREBATES.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2020-04-06

Publish the Decision