Decision for dispute CAC-UDRP-103065

Case number	CAC-UDRP-103065
Time of filing	2020-05-19 09:57:15
Domain names	boehringeringeringelheimpetrebates.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings the Panel is aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is - among others - the owner of the international trademark registrations no. 221544 (registered since 1959) and no. 568844 (registered since 1991) for BOEHRINGER-INGELHEIM.

The Complainant also owns several domain names incorporating the wording BOEHRINGER-INGELHEIM, such as <boehringer-ingelheim.com> (since 1995) and <boehringeringelheim.com> (since 2004).

FACTUAL BACKGROUND

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

The Complainant is a well-known German family-owned pharmaceutical group of companies established in 1885, which has currently about 140 affiliated companies world-wide, 50,000 employees and net sales amounting to approximately EUR 18,997 million (in 2019). The Complainant is the owner of several trademark registrations consisting of the wording BOEHRINGER-INGELHEIM.

Likewise, the Complainant is the owner of a portfolio of domain names including the wording BOEHRINGER-INGELHEIM since 1995.

The Respondent has registered the domain name <boehringeringeringelheimpetrebates.com> only last May 11, 2020. According to the Complainant, the disputed domain name would be a variation of the Complainant's registered trademark BOEHRINGER INGELHEIM, with the addition of generic/uninfluent terms.

The Complainant affirms that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with the Complainant's business. In particular, the Complainant states that the Respondent is not affiliated with BOEHRINGER INGELHEIM, nor authorized by such company in any way. In addition, The Complainant affirms it currently 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, or apply for registration of the disputed domain name by the Complainant.

The Complainant contends that the disputed domain name has been registered and being used in bad faith, as it redirects 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

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT`S TRADEMARK

The Panel finds that the disputed domain name is confusingly similar to the trademark BOEHRINGER-INGELHEIM and to the relative domain names registered by the Complainant, which has proven to have prior rights since 1959.

In particular, the Panel agrees that the addition of the syllable "INGER" and the terms "PET REBATES" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark BOEHRINGER-INGELHEIM, since the result is that the disputed domain name is confusingly similar to the mark, especially as the overall impression on the user may be of close similarity at first glance.

Many WIPO and CAC decisions – even involving the present Complainant – confirmed that the addition of generic terms does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain

names associated.

There is no doubt that the same case lies before us in this matter.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark BOEHRINGER-INGELHEIM, or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <boehringeringeringelheimpetrebates.com>.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name 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 name. This prima facie evidence was not challenged by the Respondent.

The disputed domain name redirects to a parking page with commercial links and such circumstance would demonstrate that the Respondent has attempt to attract Internet users to his own website thanks to the Complainant’s trademark for its own commercial gain, which is an evidence of bad faith.

In the absence of a response from Fundacion Comercio Electronico and given the reputation of the Complainant and its trademark (see, among others, the many decisions cited in the complaint which also involve the Respondent itself, such as CAC Case No. 102871, CAC Case No. 102871 and CAC Case No. 102854), the Panel infers that the Respondent had the Complainant's trademarks BOEHRINGER-INGELHEIM in mind when registering the disputed domain name.

Consequently, the Panel believes that the same was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGERINGERINGELHEIMPETREBATES.COM**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2020-06-22