# Decision for dispute CAC-UDRP-103181

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| Case number | CAC-UDRP-103181 |
| Time of filing | 2020-07-20 10:41:09 |
| Domain names | boehringeringelhemipetrebates.com |

## Case administrator

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

## Complainant

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| Organization | Boehringer Ingelheim Pharma GmbH & Co.KG |

## Complainant representative

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| Organization | Nameshield (Laurent Becker) |

## Respondent

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| Organization | Fundacion Comercio Electronico |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of international trademark nr. 221544 BOEHRINGER-INGELHEIM registered on 2 July 1995.

FACTUAL BACKGROUND

According to the evidence submitted by Complainant, Complainant is a German 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 disputed domain name <boehringeringelhemipetrebates.com> was registered on 13 July 2020.
According to the information provided by Complainant the disputed domain name resolves to a parking page with commercial links.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.
According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. This is a clear case of typosquatting, as the disputed domain name contains an obvious misspelling of Complainant’s trademark, as the term “heim” in the trademark is misspelled as “hemi”. Complainant also submits that the addition of the terms “PET REBATES” worsens the likelihood of confusion, as it directly refers to Complainant’s website

"www.boehringeringelheimpetrebates.com".

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not related in any way with the business of Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademark. According to Complainant the disputed domain name is a typosquatted version of the BOEHRINGER-INGELHEIM trademark.
Furthermore, the disputed domain name resolves to a parking page with commercial links which does not result in rights or legitimate interest.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of Complainant's trademark and its reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. Complainant's trademarks are distinctive and well-known. Past Panels have confirmed the notoriety of Complainant's trademarks. Complainant contends that Respondent has attempted to attract Internet users for commercial gain to its own website for its own commercial gain, which is evidence of bad faith. Complainant refers to two similar decisions in cases of Complainant against the same Respondent:
- Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico, CAC Case No. 102872 ("The evidence of use for pay per click links is registration and use in bad faith being a deliberate attempt to divert Internet users for commercial gain under Policy 4 (b)(iv) and disrupting the Complainant's business under Policy 4 (b)(iii).");
- Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico, CAC Case No. 102854 ("The Panel has reasons to presume that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.").

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the relevant trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of a trademark registration for BOEHRINGER-INGELHEIM. The disputed domain name incorporates almost the entirety of the well-known BOEHRINGER-INGELHEIM trademark as its distinctive element. The misspelling in the disputed domain name of

the word “heim” (“home” in English) of the INGELHEIM part of the trademark, is insufficient to avoid a finding of confusing similarity as the BOEHRINGER-INGELHEIM trademark remains the dominant component of the disputed domain name. The addition of the descriptive words “petrebates” in the disputed domain name can be disregarded, also in view of the fact that Complainant uses a domain name and website with the same words attached to its trademark. The Top-Level Domain ( “gTLD”) “.com” in the disputed domain name may also be disregarded.
The Panel notes that Complainant’s registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In the view of the Panel this case is a typical case of “typosquatting” which does not confer any rights nor interest in the disputed domain name. In addition, the use of a domain name to host a parked page comprising pay-per-click links does not represent a bona offering of goods or services.
Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the BOEHRINGER-INGELHEIM trademark. Respondent knew or should have known that the disputed domain name included Complainant’s well-known mark. The Panel notes that the disputed domain name has been registered and is being used for “typosquatting” purposes. The Panel further notes that the intended use of the website at the disputed domain name which incorporates Complainant’s trademark almost in its entirety indicates that Respondents possibly registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location, which constitutes registration and use in bad faith.
The Panel finally notes that Respondent is a systematic cybersquatter with a practice to select domain names incorporating famous trademarks of third parties. As pointed out in Teva Pharmaceutical Industries Limited v. Registration Private, Domains By Proxy LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2020-0071, Respondent Fundacion Comercio Electronico has been a respondent in a total of over 161 UDRP proceedings.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGERINGELHEMIPETREBATES.COM**: Transferred

## PANELLISTS

| Name | **Dinant T.L. Oosterbaan** |
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DATE OF PANEL DECISION 2020-08-13

Publish the Decision