Decision for dispute CAC-UDRP-103453

Case number	CAC-UDRP-103453
Time of filing	2020-12-15 10:50:38
Domain names	boehringeringelheimpetrenates.com

Case administrator

Organization	Denisa Bilík (CAC) (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 name.

IDENTIFICATION OF RIGHTS

The Complainant relies on its international registrations of the trademark BOERINGER-INGELHEIM under number 221544 since 2 July 1959 and number 568844 since 22 March 1991.

FACTUAL BACKGROUND

The Complainant is a major pharmaceutical company. It was founded by Albert Boehringer in Ingelheim am Rhein in 1885 and now has annual sales of 19 billion euros. It has registered its primary mark BOEHRINGER-INGELHEIM as a trademark in numerous countries.

The Complainant also holds Internet domain names with second level domain names containing the string "boehringeringelheim" including <boehringeringelheimpetrebates.com> as of 14 August 2019. The Complainant has used this domain name since then to locate a website displaying information about and enabling online applications for rebates provided by it on some of its products administered to pets.

The disputed domain name <boehringeringelheimpetrebates.com> was registered on 4 December 2020 and locates a

parking page with links to businesses in the healthcare sector.

Numerous other complaints by the Complainant of abusive registration by the Respondent of similar domain names have been upheld in other decisions under the UDRP (eg CAC 102872 <boehringeringelheimrebates.com>, CAC 102875 <boehringeringerlheimpetrebates.com>, CAC 103404 <boehringeringelheimpwtrebates.com>).

PARTIES CONTENTIONS

No administratively compliant response has been filed.

RIGHTS

The Panel finds that the Complainant has registered rights in the mark BOEHRINGER-INGELHEIM.

The Panel is also satisfied that the disputed domain name is confusingly similar to this mark, which it incorporates in its entirety, apart from the omission of the hyphen. The added elements of the disputed domain name do not avoid confusion resulting from the inclusion of the Complainant's mark. The added string "petrenates" is a typographical variant of "petrebates" which is included in the Complainant's domain name <boehringeringelheimpetrebates.com> and is descriptive of an aspect of the Complainant's business. The top-level domain name suffix is generic and should be discounted in assessing confusing similarity.

Accordingly, 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 Panel does not regard the parking page located by the disputed domain name as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use of the disputed domain. The Respondent has not disputed the Complainant's allegation that the links on the web page located by the disputed domain name are commercial. The Panel infers that the Respondent receives click-through commissions when Internet users access this page as a result of the confusingly similarity of the disputed domain name with the Complainant's mark and then click on any of the links. Accordingly, the Respondent's use of the disputed domain name misleadingly diverts consumers for its commercial gain.

It is also apparent that the Respondent is not commonly known by the disputed domain name or a corresponding name, and the Panel accepts the Complainant's statement that it has not authorised the Respondent to use its mark anything confusing similar to its mark.

In these circumstances, 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 Panel finds that by using the disputed domain name the Respondent has intentionally attempted to attract Internet users to its web page by creating a likelihood of confusion with the Complainant's mark as to the source of the web page, for commercial gain in the form of click-through commissions on the sponsored links displayed on it.

In accordance with paragraph 4(b)(iv) of the UDRP, this constitutes evidence that the disputed domain name was registered and is being used in bad faith. There is no evidence displacing this presumption and it is reinforced by the previous findings of abusive registration by the Respondent of similar domain names on other complaints brought under the UDRP by the Complainant. Accordingly, 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 confusingly similar to the primary mark of the Complainant, a leading pharmaceutical company, and locates a web page displaying sponsored links to other businesses in the healthcare sector. The Respondent has registered numerous similar domain names that were found to be abusive registrations in other decisions under the UDRP on complaints by the Complainant. The Respondent has no rights or legitimate interests in the dispute domain name. The Respondent intentionally attempted to attract Internet users to its web page by creating a likelihood of confusion with the Complainant's mark for commercial gain through sponsored links; paragraph 4(b)(iv) of the UDRP applied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGERINGELHEIMPETRENATES.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2021-01-20

Publish the Decision