

Decision for dispute CAC-UDRP-103622

Case number	CAC-UDRP-103622
Time of filing	2021-03-03 09:21:03
Domain names	boehringeringelhiempetrebates.com

Case administrator

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

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Organization	Fundacion Comercio Electronico
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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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

The Complainant relies upon various registered trade marks including international trade mark registration n°221544 for BOEHRINGER-INGELHEIM as a word mark, registered on 2 July 1959 and proceeding to grant in numerous European territories.

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 51,000 employees. The three business areas of BOEHRINGER INGELHEIM are human pharmaceuticals, animal health and biopharmaceuticals. In 2019, net sales of the BOEHRINGER INGELHEIM group amounted to about EUR 19 billion.

The Complainant owns multiple domain names consisting in the wording "BOEHRINGER INGELHEIM", such as

<boehringeringelheimpetrebates.com> registered and used since 14 August 2019.

The Domain Name was registered on 23 February 2020 and resolves 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 Domain Name is identical or confusingly similar to a trade mark 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 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 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 Complainant has satisfied the Panel that it has registered trade rights for the term "BOEHRINGER-INGELHEIM". In order to satisfy the first element of the Policy it is usually sufficient for a complainant to show that the relevant mark is "recognizable with the disputed domain name"; as to which see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"). The Domain Name can only be sensibly read as the term "Boehringer Ingelheim", with the term "Ingelheim" misspelled with an additional letter "g", combined with the words "pet" and "rebates" and the "com" top level domain. The Complainant has therefore satisfied the requirements of paragraph 4(a)(i) of the Policy.

The distinctive nature of the Complainant's mark, and the fact that the only sensible interpretation of the Domain Name is one that contains a misspelling of that mark, makes it clear that the Domain Name was registered with the knowledge of the Complainant and that mark. Further, the Panel accepts that the use made of the Domain Name suggests that the Domain Name was used to take advantage of the similarity between the Domain Name and the Complainant's mark to draw internet users to a parking page that displayed sponsored links for commercial gain. There is no right or legitimate interest in using another's mark in a domain name for such a purpose (see paragraph 2.9 of the WIPO Overview 3.0) and such registration and use is in bad faith, falling within the scope of paragraph 4(b)(iv) of the Policy.

The Panel also accepts the Complainant's contention that the Respondent has previously registered domain names seeking to take unfair advantage of the Complainant's marks contrary to the provisions of the Policy. Indeed, it appears that the Complainant is merely one of a number of entities that have been targeted in this fashion.

In the circumstances, the Complainant has also satisfied the requirements of paragraph 4(a)(ii) and (iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. BOEHRINGERINGGELHIEMPETREBATES.COM: Transferred

PANELLISTS

Name **Matthew Harris**

DATE OF PANEL DECISION **2021-03-24**

Publish the Decision
