

Decision for dispute CAC-UDRP-103618

Case number	CAC-UDRP-103618
Time of filing	2021-03-03 09:17:28
Domain names	boehringerengelheimpetreabates.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 Privacy Services LTD
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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.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations consisting of the terms "BOEHRINGER INGELHEIM" in particular international trademark no. 568844 registered on 22.03.1991 for goods in classes 1, 2, 3, 4, 5, 9, 10, 16, 30 and 31 and international trademark no. 221544 registered on 02.07.1959 for goods in classes 1, 2, 3, 4, 5, 6, 16, 17, 19, 29, 30 and 32.

Moreover, the Complainant uses various domain names including the wording "BOEHRINGER INGELHEIM", in particular <boehringerengelheimpetreabates.com>, which was created on 14.08.2019.

FACTUAL BACKGROUND

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

1. The Complainant is a family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in Ingelheim am Rhein. It is a global research-driven pharmaceutical enterprise and has about 51,000 employees and is one of the world's leading pharmaceutical companies. The Complainant's three business areas are

human pharmaceuticals, animal health and biopharmaceuticals.

The Complainant further contends the distinctiveness and reputation of its trademark.

2. The disputed domain name <boehringerengelheimpetreabates.com> was created on 23.02.2021. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page comprising pay-per-click links, some of which are clearly related to the pharmaceutical sector in which the Complainant operates.

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

1. The Panel finds that the disputed domain name <boehringerengelheimpetreabates.com> is confusingly similar to the Complainant's trademarks. Many panels have found that a domain name is confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark in its entirety. This is the case in the case at issue where the Complainant's registered trademark "BOEHRINGER INGELHEIM" is fully included in the disputed domain name. Finally, it is the view of this Panel that the addition of misspelled version of the generic terms "pet rebates" (i.e. addition of "petreabates") is not able to prevent the possibility of confusion amongst consumers. In fact, the trademark "BOEHRINGER INGELHEIM" is clearly recognizable within the disputed domain name.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name <boehringerengelheimpetreabates.com>.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant's business. In addition, the Respondent is not commonly known by the disputed domain name.

In addition, it results from the undisputed evidence before the Panel that the disputed domain name Resolved to a parking website comprising pay-per-click links that compete with or capitalize on the Complainant's trademark. UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent bona fide offering

where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead internet users (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at section 2.9 with further references).

This Panel shares this view. In particular, the Panel is satisfied that the registered trademark "BOEHRINGER INGELHEIM" is distinctive. Therefore, such use can neither be considered as bona fide offering of goods or services nor 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 or service mark at issue.

3. Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

The Complainant has been established many decades ago and has a worldwide reputation as pharmaceutical company and its trademarks have existed for a long time. Therefore, it is the view of this Panel that the Respondent has intentionally registered the disputed domain name which totally reproduces the Complainant's trademark "BOEHRINGER INGELHEIM". By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on its trademarks. The Complainant also proved that the Respondent was using the disputed domain name to lead to a parking page comprising pay-per-click links some of which are clearly related to the pharmaceutical sector in which the Complainant operates. These facts also confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, 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 or location, or of a product or service on the Respondent's web site or location.

In addition, this finding of bad faith registration and use is further supported by the further circumstances resulting from the case at hand, which are the following: (i) the Respondent's failure to submit a response; (ii) the Respondent failure to provide any evidence of actual or contemplated good-faith use; (iii) the implausibility of any good faith use to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. BOEHRINGERINGELHEIMPETREABATES.COM: Transferred

PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION 2021-04-05

Publish the Decision
