Decision for dispute CAC-UDRP-103620

Case number	CAC-UDRP-103620
Time of filing	2021-03-03 09:19:47
Domain names	boehringer-ingelheimpetrebates.com

Case administrator

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

Complainant

Organization	Boehringer Ingelheim Pharma GmbH & Co.KG

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Whois Privacy Corp.

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 holder of International trademark BOEHRINGER INGELHEIM with No. 221544, registered since July 2, 1959; and with No.568844 registered since March 22, 1991 for multiple goods in many jurisdictions (the "Trademark").

FACTUAL BACKGROUND

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

The Complainant claims to be 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, Germany. Ever since, the Complainant has become a global research-driven pharmaceutical enterprise and has today about roughly 51,000 employees. In 2019, net sales of the Complainant's group of companies amounted to about EUR 19 billion. Apart from the Trademark portfolio, the Complainant owns multiple domain names consisting of the term “BOEHRINGER INGELHEIM”, such as <boehringeringelheimpetrebates.com> which was registered hand has been used since August 14, 2019.

The disputed domain name was registered on February 2, 2021 and resolve to a parking page with commercial links.

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as the disputed domain name contains the Trademark in its entirety, while the addition of the terms “PET REBATES” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Trademarks. On the contrary, the Complainant argues that the added terms enhances the likelihood of confusion as it makes the disputed domain name nearly identical to the Complainant's domain name <boehringeringelheimpetrebates.com>.

The Complainant further alleges that the Respondent does not have any rights or legitimate interest in the disputed domain name. The Respondent is not known under the disputed domain name, and is neither affiliated with nor authorized by the Complainant to use the Trademark in the disputed domain name. Furthermore, the disputed domain name resolves to a parking page with commercial links which is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Finally, the Complainant claims that the Trademark is distinctive and well-known and that it is therefore likely that the Respondent registered the disputed domain name while being aware of the Trademark. The Complainant also contends that the Respondent chose to register the disputed domain name to create a confusion with the Complainant's domain name <boehringeringelheimpetrebates.com>, which domain name has been used by the Complainant to offer rebate on its pet products since 2019.

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 is confusingly similar to the Trademark, which has been taken in its entirety in the disputed domain name. Neither the hyphen between the terms "BOEHRINGER" and "INGELHEIM" nor the addition of the terms "PET REBATES" in the disputed domain name take away the confusing similarity of the disputed domain name to the Trademark.

2. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent was not commonly known under the disputed domain name or authorized by the Complainant to register and use the disputed domain name. This prima facie evidence was not challenged by the Respondent.

3. The Panel is satisfied that the Trademark is distinctive and enjoyed a reputation well before the Respondent registered the disputed domain name. The Complainant further showed that it had been using the Trademark as part of its domain name

<boehringeringelheimpetrebates.com> since 2019. As the disputed domain name is nearly identical to this domain name the Panel finds that the Respondent musts have been aware of the Trademark and the Complainant's use of the aforementioned domain name and associated website when it registered the disputed domain name and put it into use. Accordingly, the Panel finds that the Complainant succeeded in proving that the Respondent registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGER-INGELHEIMPETREBATES.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2021-04-06

Publish the Decision