

Decision for dispute CAC-UDRP-103769

Case number	CAC-UDRP-103769
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Time of filing	2021-04-29 10:00:30
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Domain names	boehringerengelheimpertebares.com, boehringerengelhrimpetsrebates.com, wwwboehringerengelheimerrebates.com
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is - among others - the owner of the international trademark registrations no. 221544 (registered since 1959) and no. 568844 (registered since 1991) for BOEHRINGER-INGELHEIM.

The Complainant also owns several domain names incorporating the wording BOEHRINGER-INGELHEIM, such as <boehringerengelheimpetrebates.com>, registered on August 14, 2019.

FACTUAL BACKGROUND

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

The Complainant is a well-known German family-owned pharmaceutical group of companies established in 1885, which has currently about 140 affiliated companies world-wide, 50,000 employees and net sales amounting to approximately EUR 19.6 billion (in 2020). The Complainant is the owner of several trademark registrations consisting of the wording BOEHRINGER-INGELHEIM.

Likewise, the Complainant is the owner of a portfolio of domain names including the wording BOEHRINGER-INGELHEIM since many years.

The Respondent has registered the disputed domain names <boehringerengelheimpertebares.com>, <boehringerengelhrimpetsrebates.com> and <wwwboehringerengelheimerrebates.com> only last April 23, 2021.

According to the Complainant, the disputed domain names would be typosquatting variations of the Complainant's registered trademark BOEHRINGER INGELHEIM.

The Complainant affirms that the Respondent has no rights or legitimate interests in respect of the disputed domain names and is not related in any way with the Complainant's business. In particular, the Complainant states that the Respondent is not affiliated with BOEHRINGER INGELHEIM, nor authorized by such company in any way. In addition, The Complainant affirms it currently does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain names by the Complainant.

The Complainant contends that the disputed domain names have been registered and being used in bad faith, as they redirect to parking pages with commercial links.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 NAMES ARE IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT'S TRADEMARK

The Panel finds that the disputed domain names are confusingly similar to the trademark BOEHRINGER-INGELHEIM and to the relative domain names registered by the Complainant, which has proven to have prior rights since 1959.

In particular, the Panel agrees that the misspelling in the trademark BOEHRINGER-INGELHEIM (namely the substitution of the letter "E" by the letter "R" or the addition of letters "WWW") and the addition of terms such as "PERTEBARES", "PETSREBATES" or "PERREBATES" are not sufficient to escape the finding that the domain names are confusingly similar to the trademark BOEHRINGER-INGELHEIM, also considering the Complainant owns the prior domain name <boehringerengelheimpetrebates.com>.

Several WIPO and CAC decisions – also involving the Complainant itself – confirmed that misspelling of a trademark with an obvious typosquatting purpose does not change the overall impression of the designation as being connected to the Complainant's trademark.

The same case lies before us in this matter.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAMES

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark BOEHRINGER-INGELHEIM, or to apply for registration of the disputed domain names on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain names. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <boehringerengelheimpertebares.com>, <boehringerengelhrimpetsrebates.com> and <wwwboehringerengelheimperrebates.com>.

THE DISPUTED DOMAIN NAMES HAVE BEEN REGISTERED AND ARE USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names. This prima facie evidence was not challenged by the Respondent.

All the disputed domain names redirect to parking pages with commercial links and such circumstance would demonstrate that the Respondent has attempted to attract Internet users to its own website, thanks to the Complainant's trademark for its own commercial gain, which is an evidence of bad faith.

In the absence of a response from Fundacion Comercio Electronico and given the reputation of the Complainant and its trademark (see, among others, the decisions which involve the Respondent itself, such as CAC Case No. 102871 and CAC Case No. 102854), the Panel infers that the Respondent had the Complainant's trademarks BOEHRINGER-INGELHEIM in mind when registering the disputed domain names.

Consequently, the Panel believes that the same were registered and are used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOEHRINGERINGELHEIMPERTEBARES.COM**: Transferred
 2. **BOEHRINGERINGELHRIMPETSREBATES.COM**: Transferred
 3. **WWWBOEHRINGERINGELHEIMPERREBATES.COM**: Transferred
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PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION	2021-05-26
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Publish the Decision	
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