Decision for dispute CAC-UDRP-102929

Case number	CAC-UDRP-102929
Time of filing	2020-02-21 11:07:20
Domain names	boehringereringelheimpetrebates.com, boehringeringelhelmpetrebates.com, boehringerinhelheimpetrebates.com, boehringeringelheimptrebates.com, boehringeringeheimpetrebates.com, wwwboehringeringelheimpetrebates.com, boehringerngelheimpetrebates.com, boehringeringetheimpetrebates.com, boehringeringelheimperebates.com, boehringeringelheimrebate.com, boehringerlheimpetrebates.com

Case administrator

Name	Šárka Glasslová (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 unaware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant owns international trademark n°221544 BOEHRINGER-INGELHEIM, registered since July 2, 1959.

FACTUAL BACKGROUND

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

The Complainant says each of the disputed domain names is confusingly similar to its very well-known BOEHRINGER-INGELHEIM trademark and that the Respondent has no rights or legitimate interests with respect to the disputed domain names, which were registered and are being used in bad faith.

Past Panels have confirmed the Complainant’s rights in similar case. Please see CAC Case No. 102854, Boehringer

Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico <boehringerringelheimpetrebates.com>. (“The domain name is confusingly similar to the protected trademark as a result of : 1. Misspelling/Typosquatting (boehringerringelheimpetrebates.com) with a double r at the end of Boehringer and before Ingelheim; 2. Mark combined with generic term. PET REBATES is a generic term also used by Complainant in its own domain name www.boehringeringelheimpetrebates.com to inform visitors of the website about offers for Pet medicines. On top it also worsens likelihood of confusion, because the addition of the terms “PET REBATES” directly refers to the Complainant’s website www.boehringeringelheimpetrebates.com/”).

The Respondent is known for a pattern of such conduct, see: CAC Case No. 102854 Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico ("The Panel has reasons to presume that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves.").

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

Rights

The Complainant, a long-standing and very well-known pharmaceutical company, has trademark rights in international trademark n°221544 BOEHRINGER-INGELHEIM, registered since July 2, 1959. The Complainant operates a website at www.boehringeringelheimpetrebates.com.

Identity/confusing similarity

This is a classic case of typosquatting. All eleven of the disputed domain names were registered between January 27, 2020 and February 14, 2020. One of the disputed domain names, <wwwboehringeringelheimpetrebates.com>, reproduces the Complainant's "www.boehringeringelheimpetrebates.com" website address in full, without the full stop after "www". Three of them reproduce the trademark BOEHRINGER-INGELHEIM in its entirety, with the exception of the hyphen between the two words, followed by a misspelling of the conjoined words "petrebates". These are <boehringeringelheimptrebates.com>, <boehringeringelheimperebates.com> and <boehringeringelheimrebate.com>. The remaining seven disputed domain names involve a misspelling of the trademark, omitting the hyphen, followed by "petrebates". These are

<boehringereringelheimpetrebates.com>, <boehringeringelhelmpetrebates.com>, <boehringeringelheimpetrebates.com>, <boehringerinnelheimpetrebates.com>, <boehringeringeheimpetrebates.com>, <boehringerngelheimpetrebates.com>, <boehringetingelheimpetrebates.com> and <boehringerlheimpetrebates.com>. In each case the inconsequential gTLD ".com" may be disregarded.

Since the words "pet rebates" are associated in the public mind with the Complainant, none of the differences in any of the disputed domain names is sufficient to dispel a finding of confusing similarity between the disputed domain names and the trademark.

Accordingly, the Panel finds the disputed domain names to be confusingly similar to the Complainant's trademark. The Complaint has satisfied this element under paragraph 4(a)(i) of the Policy.

Legitimacy

The Panel accepts the Complainant's undisputed assertions that the Respondent is not commonly known by any of the disputed domain names; is not affiliated with the Complainant and is not authorized to carry out any activity for the Complainant; and has not acquired trademark rights in any of the terms used in any of the disputed domain names. Further, the disputed domain names redirect to a parking page with commercial links. This is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain names. Consequently the Complainant has established this element under paragraph 4(a)(ii) of the Policy.

Bad faith

The trademark is clearly identifiable in each of the disputed domain names. The use of the words "pet rebates" commonly associated with an activity of the Complainant show that the Respondent was aware of the Complainant and intended to benefit commercially from the likelihood of confusion. This is evidenced through the parking of the disputed domain names on pay-per click websites.

As was found against the same Respondent in CAC Case No. 102854 Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico, the Panel finds that the Respondent registered the disputed domain names with the Complainant's well-known trademark in mind and has used them with intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the websites to which the disputed domain names resolve. Hence the Panel finds that the disputed domain names were registered and are being used in bad faith.

The Complainant has established this element under paragraph 4(a)(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. **BOEHRINGERERINGELHEIMPETREBATES.COM**: Transferred
2. **BOEHRINGERINGELHELMPETREBATES.COM**: Transferred
3. **BOEHRINGERINHELHEIMPETREBATES.COM**: Transferred
4. **BOEHRINGERINGELHEIMPTREBATES.COM**: Transferred
5. **BOEHRINGERINGEHEIMPETREBATES.COM**: Transferred
6. **WWWBOEHRINGERINGELHEIMPETREBATES.COM**: Transferred
7. **BOEHRINGERNGELHEIMPETREBATES.COM**: Transferred
8. **BOEHRINGERINGETHEIMPETREBATES.COM**: Transferred
9. **BOEHRINGERINGELHEIMPEREBATES.COM**: Transferred

10. **BOEHRINGERINGELHEIMREBATE.COM**: Transferred
11. **BOEHRINGERLHEIMPETREBATES.COM**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2020-03-24

Publish the Decision