# Decision for dispute CAC-UDRP-103139

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| Case number | **CAC-UDRP-103139** |
| Time of filing | **2020-06-26 09:19:26** |
| Domain names | **pradaxacn.com** |

## Case administrator

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| Name | **Šárka Glasslová (Case admin)** |

## Complainant

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| Organization | **Boehringer Ingelheim Pharma GmbH & Co.** |

## Complainant representative

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| Organization | **Nameshield (Enora Millocheau)** |

## Respondent

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| Name | **bai he** |

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 owner inter alia, of the following trademark registrations consisting of or comprising PRADAXA:

- International Trademark registration No. 807503 for PRADAXA (word mark), registered on July 9, 2003, in international class 5;

- International Trademark registration No. 991238 for PRADAXA (figurative mark), registered on October 29, 2008, in international class 5;

- International Trademark registration No. 131583 for PRADAXA (figurative mark), registered on April 6, 2016, in international class 5.

FACTUAL BACKGROUND

The Complainant is a German family-owned pharmaceutical group of companies with roots going back to 1885, when it was founded by Albert Boehringer in Ingelheim am Rhein.

Ever since, BOEHRINGER has become a global research-driven pharmaceutical enterprise with roughly 50,000 employees. The three business areas of BOEHRINGER are human pharmaceuticals, animal health and biopharmaceuticals. In 2019, net sales of the BOEHRINGER group of companies amounted to about EUR 18,997 million.

PRADAXA (generic name: Dabigatran) is an oral anticoagulant from the class of the direct thrombin inhibitors. It is being studied for various clinical indications and in some cases it offers an alternative to warfarin as the preferred orally administered anticoagulant ("blood thinner") since it cannot be monitored by blood tests for international normalized ratio (INR) monitoring while offering similar results in terms of efficacy.

The Complainant is the owner of numerous domain names consisting of the trademark PRADAXA, such as the domain name <pradaxa.com>, which is used by the Complainant to promote its PRADAXA products online.

The disputed domain name <pradaxacn.com> was registered on March 16, 2020 and is redirected to a website displaying information regarding PRADAXA products and some links to other online locations where such products can be purchased online.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to its trademark PRADAXA as it incorporates the trademark in its entirety with the mere addition of the geographic abbreviation “cn”, which is not sufficient to avoid the likelihood of confusion.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name since the Respondent has no relationship with the Complainant and has not been authorized to use the trademark PRADAXA or register the disputed domain name.

The Complainant also states that the Respondent’s use of the disputed domain name does not amount to a bona fide offering of goods or services or a legitimate use.

The Complainant points out that the disputed domain name was registered and is being used in bad faith since the Respondent must have been aware of the Complainant’s trademark PRADAXA at the time the Respondent registered the disputed domain name, as the disputed domain name resolves to a website that makes direct reference to the PRADAXA products and the Complainant, and offers these products for sale.

The Complainant further states that, since the Respondent is in the business of the sale of pharmaceuticals, it certainly knew of the Complainant's trademarks at the time of registration of the disputed domain name, and deliberately sought to use their goodwill to attract Internet users seeking the Complainant's product.

The Complainant concludes that the Respondent has registered and used the disputed domain name in order to deceive Internet users seeking the Complainant's product, so as to generate revenue from selling unrelated or competing pharmaceuticals.

RESPONDENT:

The Respondent did not reply to the Complainant’s contentions.

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

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 Complainant's trademark PRADAXA as it reproduces the Complainant's trademark in its entirety with the mere addition of the geographical indicator "cn" and the Top-Level domain ".com". As stated in a number of prior decisions rendered under the UDRP, these minor changes are not sufficient to exclude the likelihood of confusion.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name.

According to the evidence on records, the Respondent has pointed the disputed domain name to a website featuring the Complainant's trademark PRADAXA and offering for sale purported PRADAXA products, without providing any accurate disclaimer as to the lack of affiliation with the Complainant and generating the impression that the website is operated by, or affiliated with, the Complainant. Moreover, the use of the disputed domain name described above clearly does not amount to a legitimate non-commercial or fair use.

Therefore, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name and that, by not submitting a Response, the Respondent has failed to rebut the Complainant's prima facie case.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark PRADAXA in connection with the Complainant's products, the well-known character of the trademark in its sector and the express reference to the Complainant's trademark and products on the website published at the disputed domain name, the Respondent was very likely aware of the Complainant's trademark at the time of the registration of the disputed domain name.

In view of the current use of the disputed domain name to redirect users to a website featuring the Complainant's trademark and offering for sale purported PRADAXA products, the Panel finds that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the Complainant's trademark PRADAXA as to the source, sponsorship, affiliation or endorsement of its website and the products offered therein, according to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PRADAXACN.COM**: Transferred

## PANELLISTS

| Name | **Luca Barbero** |
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DATE OF PANEL DECISION 2020-07-29

Publish the Decision