

Decision for dispute CAC-UDRP-106017

Case number CAC-UDRP-106017

Time of filing 2023-11-30 09:49:00

Domain names **jardiance.today**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **Boehringer Ingelheim International GmbH**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **janis yan**

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 has proved to own the following trademark:

International Registered trademark JARDIANCE n°981336;

Registration date: September 3, 2008, renewed.

Besides, the Complainant also owns the following domain name containing the JARDIANCE denomination: <jardiance.com> registered on April 30, 2008.

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. The Complainant is one of the top 20 companies in the pharmaceutical industry.

JARDIANCE is a prescription medicine to lower blood sugar in adults with type 2 diabetes and also to reduce the risk of cardiovascular death in adults with type 2 diabetes.

The Respondent registered the disputed domain name <jardiance.today> on November 21, 2023 and resolves to a parking page with commercial links. Besides MX servers are configured.

The Complainant submitted the following documents to prove the abovementioned facts:

- Information regarding the Complainant
- Information regarding the Complainant's product JARDIANCE
- Copies of Complainant's trademarks registrations
- Complainant's domain name
- Whois of the disputed domain name
- Website in relation with the domain name
- DNS configuration
- Copy of the TMCH registration
- Google results for the terms "JARDIANCE"

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

Identity (paragraph 4(a)(i) of the Policy)

The Panel finds that the domain name <jardiance.today> is confusingly similar to the Complainant's JARDIANCE trademark.

Firstly, the Complainant's JARDIANCE trademark is incorporated in the disputed domain name in its entirety without any adjunction of letter or word.

Secondly, in the Panel's opinion, the new GTLD ".TODAY" does not prevent the similarity between the Complainant's trademark and the aforementioned domain name.

Thus, the Panel finds that disputed domain name is confusing and does not provide additional specification or sufficient distinction from the Complainant or its mark.

Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy)

The Complainant asserted that the Respondent has never been granted a license, or any other way been authorized, in order to register the disputed domain name. In addition, the Respondent is not related in any way with the Complainant. Consequently, the Panel finds that the Respondent lacks any right or legitimate interest in using the disputed domain name.

The Complainant also highlighted that the disputed domain name resolves to a parking page with commercial links. Therefore, the Panel finds that this purpose of offering sponsored links does not qualify as a bona fide use. The Respondent did not intend to use the disputed domain name in connection with any legitimate purpose.

Finally, the Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain name. However, by failing to file a response, the Respondent has missed this opportunity and the Panel is entitled to draw such inferences from the Respondent's failure as it considers appropriate in accordance with Paragraph 14 of the Rules.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Bad faith (paragraph 4(a)(iii) of the Policy)

In the light of the records, the Complainant showed the disputed domain name is consequently similar to the JARDIANCE trademark. The Panel finds that the Respondent cannot reasonably pretend he was intending to develop a legitimate activity through the disputed domain name. Arguably, the Respondent registered said domain name knowing that the trademark benefited from a worldwide reputation. Indeed, a Google search of the term "JARDIANCE" displays results only in relation with the Complainant's products.

Moreover, the time of the registration, namely November 2023, is well posterior to the registration of JARDIANCE trademark.

Therefore, it is clear to the Panel that the Respondent was well aware of the JARDIANCE trademark and has registered the dispute domain name with the intention to refer to the Complainant and to its trademark.

Furthermore, it seems that the Respondent has registered the dispute domain name in bad faith for the sole purpose to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark. In fact, the disputed domain name resolves to a parking page with commercial links. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Finally, the disputed domain name has been set up with MX records. To the Panel's opinion, the active MX records shows that the Respondent has registered the disputed domain name for email purposes, which increases the risk of potential phishing actions. Therefore, the Panel finds that the disputed domain name was registered and is being 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. **jardiance.today**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION **2023-12-29**

Publish the Decision
