# Decision for dispute CAC-UDRP-106188

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| Case number | CAC-UDRP-106188 |
| Time of filing | 2024-01-25 12:09:28 |
| Domain names | jardiance.site |

## Case administrator

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

## Complainant

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| Organization | Boehringer Ingelheim International GmbH |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Organization | Ren Chen Fan |

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 a registered owner of the following trademark containing a word element "JARDIANCE":

- JARDIANCE (word), International (WIPO) trademark, registration date 3 September 2008, trademark registration no. 981336, registered for goods in the international class 5;

besides other international and national trademarks consisting of the "JARDIANCE" denomination (collectively referred to as "Complainant's Trademarks").

Furthermore, the Complainant is the owner of a numerous portfolio of domain names including the wording "JARDIANCE", such as <jardiance.com> registered on 30 April 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 (1861-1939) in Ingelheim am Rhein. Ever since, BOEHRINGER has become one of the top 20 companies in the pharmaceutical industry with over 53,000 employees. In 2022, net sales of the BOEHRINGER group of companies amounted to about 24.1 billion euros.

JARDIANCE (Empagliflozin) is a prescription medicine used along with diet and exercise 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 who have known cardiovascular disease.

The disputed domain name was registered on 23 January 2024 and is held by the Respondent.

The domain name website (i.e. website available under internet address containing the disputed domain name) includes random, likely automatically generated, links to third party websites not in any way related to the Complainant.

The Complainant seeks transfer of the disputed domain name to the Complainant.

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PARTIES CONTENTIONS

**COMPLAINANT:**

CONFUSING SIMILARITY

The Complainant states that:

- The disputed domain name is identical to Complainant's Trademarks as they both incorporate the “JARDIANCE” word element of the Complainant’s trademarks in its entirety and the “.site” element must be disregarded.
- The Complainant refers to previous domain names decisions in this regard.
- Thus, according to the Complainant the confusing similarity between Complainant’s trademarks and the disputed domain name is clearly established.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

- The Respondent has not been commonly known by the disputed domain name.
- The Complainant has not authorized, permitted or licensed the Respondent to use Complainant’s trademarks in any manner. The Respondent has no connection or affiliation with the Complainant. whatsoever. On this record, Respondent has not been commonly known by the disputed domain name.
- Furthermore, the disputed domain name resolves to a parking page with commercial links. Such use is not a bona fide offering of goods or services or legitimate non-commercial or fair use.
- The Complainant refers to previous domain names decisions in this regard.

BAD FAITH REGISTRATION AND USE

The Complainant states that:

- Seniority of the Complainant's Trademarks predates the registration of the disputed domain name.
- Furthermore, the Complainant's Trademarks are well-known and have received widespread recognition. Therefore, the Respondent must have been aware of such trademarks and their reputation. This clearly indicates bad faith registration of disputed domain name by the Respondent.
- The disputed domain name website resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.
- The Complainant refers to previous domain names decisions in this regard.

**RESPONDENT:**

The Respondent has not provided any response to the Complaint.

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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).

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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

RIGHTS

The disputed domain name and the Complainant’s trademarks are identical.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the “.site“) must be disregarded under the identity and confusing similarity tests as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainants' assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of Policy).

Use of the disputed domain name for purposes of providing links to third party content, which seems to be automatically generated, does not constitute any rights to the disputed domain name or legitimate interest in it.

BAD FAITH

The Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith.

The Complainant's Trademarks are well-known and have received widespread recognition and predates registration of the disputed domain name. The term “JARDIANCE” is a denomination with a high degree of distinctiveness, with no meaning in any language. It follows that it is highly implausible that Respondent would register a disputed domain name for itself without knowing the Complainant’s trademarks and their reputation. This clearly indicates bad faith registration of disputed domain name by the Respondent.

As described above, the Complainant has proven that the Respondent has used (at least for some time) the disputed domain name for promotion and offering goods and services (i) likely with intention to free-ride on reputation and goodwill of Complainant's trademarks and business and, even more importantly, (ii) in a manner that was detrimental both to the customers as well the Complainant and its business.

Thus, the Panel has taken a view that 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).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **jardiance.site**: Transferred

## PANELLISTS

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| Name | **Jiří Čermák** |

DATE OF PANEL DECISION 2024-02-26

Publish the Decision