Decision for dispute CAC-UDRP-107533

Case number	CAC-UDRP-107533
Time of filing	2025-04-30 09:45:00
Domain names	jardiance-generic.cfd

Case administrator

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

Complainant

Organization	Boehringer Ingelheim International GmbH

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	VEMOBLI

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 of several trademarks JARDIANCE, including but not limited to the international trademark JARDIANCE n° 981336 registered since September 3, 2008.

The Complainant also owns many domain names including its trademark JARDIANCE, such as the domain name <jardiance.com> registered on April 30, 2008.

FACTUAL BACKGROUND

FACTS PROVIDED BY THE COMPLAINANT:

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. The Complainant has become a global research-driven pharmaceutical enterprise and has around 53,500 employees. It is divided into two business areas: Human Pharma and Animal Health. In 2023, the Complainant achieved net sales of 25.6 billion euros.

The Complainant indicated that JARDIANCE (Empagliflozin) is a prescription medicine used along with diet and exercise to lower blood sugar in adults with type 2 diabetes as well as to reduce the risk of cardiovascular death in adults with type 2 diabetes who

have known cardiovascular disease.

The Complainant owns a portfolio of brands including the word “JARDIANCE” in several countries, such as the international trademark JARDIANCE n° 981336 registered since September 3, 2008. Furthermore, the Complainant is the owner of a numerous portfolio of domain names including the wording “JARDIANCE”, such as the domain name <jardiance.com> registered on April 30, 2008.

The disputed domain name <jardiance-generic.cfd> (hereinafter, the “Disputed Domain Name”) was registered on April 16, 2025 and it resolves to a parking page with commercial links.

According to the Complainant’s non-contested allegations, the Respondent has no rights or legitimate interest in respect of the Disputed Domain Name, and he is not related in any way to the Complainant’s business.

For the purpose of this case, the Registrar confirmed that the language of the registration agreement is English.

The Respondent did not reply to the Complaint.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES CONTENTIONS

COMPLAINANT:

First element: Similarity

The Complainant confirms that the Disputed Domain Name <jardiance-generic.cfd> is confusingly similar to its trademark JARDIANCE.

The Complainant asserts that the addition of the term “GENERIC” is not sufficient to escape the finding that the Disputed Domain Name is confusingly similar to the trademark and branded goods JARDIANCE. It does not change the overall impression of the designation as being connected to the Complainant’s trademark JARDIANCE. It does not prevent the likelihood of confusion between the Disputed Domain Name and the Complainant, its trademark and the domain name associated.

Furthermore, the Complainant contends that the addition of the new gTLD “.CFD” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the Disputed Domain Name and the Complainant, its trademark and its domain names associated.

Second element: Rights or legitimate interest

The Complainant asserts that the Respondent is not identified in the Whois as the Disputed Domain Name. In accordance with the Complainant, Past panels have held that a Respondent was not commonly known by a Disputed Domain Dame if the Whois information was not similar to the Disputed Domain Name. Thus, the Respondent is not known as the Disputed Domain Name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark JARDIANCE, or apply for registration of the Disputed Domain Name by the Complainant.

Furthermore, the Disputed Domain Name resolves to a parking page with commercial links. In accordance with the Complainant’s allegation, past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Third element: Bad faith

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).

Moreover, the Disputed Domain Name resolves to a parking page with commercial links. The Complainant contends that the Respondent has attempt 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.

Finally, the Complainant states that the Respondent is known for a such pattern of conduct and provided with the WIPO Case No. D2025-0271 LPL Financial LLC v. Clark Smith where the Respondent’s name appears as well as Respondent.

RESPONDENT:

Respondent did not reply to the Complaint.

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

THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR TO THE TRADEMARK JARDIANCE OF THE COMPLAINANT.

The Uniform Domain Name Dispute Resolution Policy (the Policy) in its Paragraph 4(a)(i) indicates the obligation of the Complainant to demonstrate that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has submitted evidence showing the ownership of the international trademark JARDIANCE n°981336 registered since September 3, 2008.

In the current case, the Disputed Domain Name is composed of the trademark JARDIANCE together with a hyphen and the term “GENERIC”. In assessing confusing similarity, the Panel finds the Disputed Domain Name is indeed confusingly similar to the Complainant’s trademark, as it incorporates the entirety of the JARDIANCE trademark plus a hyphen and the term “GENERIC”. In this sense, UDRP panels agree that where the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See paragraph 1.8. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition 3.0 (“WIPO Jurisprudential Overview 3.0.).

UDRP panels agree that the TLD may usually be ignored for the purpose of determination of identity or confusing similarity between a domain name and the Complainant’s trademark as it is technical requirement of registration. See paragraph 1.11.1 of WIPO Jurisprudential Overview 3.0.

Therefore, the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy and the Disputed Domain Name is confusingly similar to Complainant’s “JARDIANCE» trademark.

RESPONDENT’S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME.

The second element of the Policy requires that the Complainant establishes that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The generally adopted approach by UDRP panels, when considering the second element, is that if a complainant makes out a prima facie case, the burden of proof shifts to the respondent to rebut it (see WIPO Jurisprudential Overview, version 3.0., paragraph 2.1).

The Complainant indicates that the Respondent is not affiliated nor authorized in any way to use the trademark **JARDIANCE.** Furthermore, the Complaint argues that it does not carry out any activity for nor has any business with the Respondent. Finally, the Complainant has not granted a license or authorization to the Respondent to make any use of the trademark JARDIANCE.

From the information provided by Complainant, there is no evidence or reason to believe that the Respondent (as an individual, business or other organization) has been commonly known by the Disputed Domain Name. The Respondent registered the Disputed Domain Name under the name “VEMOBLI / Clark Smith” and this is all what links the Disputed Domain Name with the Respondent.

Absent of any other evidence such as a personal name, nickname or corporate identifier, the Panel is of the opinion that the Respondent is not commonly known by the Disputed Domain Name.

The Complainant has also provided evidence showing that the Disputed Domain Name resolves to a parking page with commercial links. Past panels have confirmed that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

Furthermore, panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark (see WIPO Jurisprudential Overview, version 3.0., paragraph 2.9).

In the case at hand, the evidence provided by the Complainant shows that the links connected to the Disputed Domain Name are about "Furniture", "Garden" as well as other generic terms in the French language, however, the Disputed Domain Name is composed of the trademark JARDIANCE - which is a term created by the Complainant and which might not have any meaning in the French language – at least from what the Panel was able to confirm.

The fact that Respondent did not reply to the Complaint gives an additional indication that the Respondent lacks rights or legitimate interest since the Respondent did not provide with evidence of the types specified in paragraph 4 (c) of the Policy, or of any circumstances, giving rise to rights or legitimate interests in the Disputed Domain Name.

Therefore, the Panel concludes that neither the Respondent nor the evidence establishes that the Respondent has any right or legitimate interest to the Disputed Domain Name. The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH IN ACCORDANCE WITH THE POLICY.

Paragraph 4(a)(iii) of the Policy indicates that Complainant must assert that the Respondent registered and is using the Disputed Domain Name in bad faith. In this sense, Paragraph 4(b) of the Policy sets out four circumstances which if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Respondent has registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) The Respondent has registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product.

The evidence submitted by Complainant confirms that its trademark JARDIANCE® is distinctive and it has a strong reputation in the pharmaceutical industry. In this vein, the Complainant referred to the WIPO UDRP case Nr. D2024-3001 involving the Complainant by which the Panel indicated the following: "The Complainant's trademark JARDIANCE is well known and the Complainant's registration and use of its mark much predates the Respondent's registration of the disputed domain names, so the Respondent knew or should have known of the Complainant's mark at the time of registering the disputed domain names."). Absent of Respondent's reply, the Panel finds that Respondent, prior to the registration of the Disputed Domain Name was aware of Complainant's trademark, in particular since the Disputed Domain Name was registered on April 16, 2025 and Complainant's trademarks were registered long before the registration of the Disputed Domain Name.

Panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See paragraph 3.1.4 of WIPO Jurisprudential Overview 3.0.

From this evidence, the Panel concludes that the Respondent had actual knowledge of the Complainant's trademark at the time it registered the Disputed Domain Name.

The Complainant has also provided evidence showing that the Disputed Domain Name resolves to a parking page with commercial links. It is well established at different UDRP Panel resolutions that the Respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (see paragraph 3.5. of WIPO Overview 3.0.).

This view is also supported by UDRP CAC cases such as Case Nr. 100364, eLeader Sp. Z.o.o.v v. Hyunjong Lee, where the Panel stated that a domain name registrant is normally deemed responsible for the content appearing on its website, even if it is not exercising direct control over such content.

In light of the above-mentioned findings, the Panel finds that the evidence submitted by the Complainant supports the argument that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product.

One additional argument presented by the Complaint relates to the fact that Respondent is known for registering domain names in bad faith and for this purpose, the Complainant included information concerning the UDRP WIPO Case Nr. D2025-0271 LPL Financial LLC v. Clark Smith.

In this sense, past panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner. A pattern of abuse has also been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners. See paragraph 3.1.2 of the WIPO Jurisprudential Overview 3.0.

While the evidence presented by the Complainant does not allow to confirm in its entirety the pattern of bad faith conduct, the Panel decided to use its general powers articulated in paragraphs 10 and 12 of the UDRP Rules to conduct a limited online search regarding additional UDRP's where the Respondent has been involved and the Panel found that the Respondent has been involved in at least the following UDRP's: UDRP WIPO Nr. D2025-1327 & D2025-0895.

Based on the above, the Panel is in the position to confirm the establishment of a pattern of bad faith conduct on the Respondent.

In light of the evidence presented to the Panel, including: a) the likelihood of confusion between the Disputed Domain Name and the Complainant's JARDIANCE trademarks, b) the lack of reply to this Complaint by Respondent, c) the fact that the Disputed Domain Name resolves to a parking page with commercial links and, d) the fact that the Respondent has been involved in additional UDRP Disputes, the Panel draws the inference that the Disputed Domain Name was registered is being used in bad faith.

Therefore, the Panel concludes that Respondent registered and is using the Disputed Domain Name in bad faith and thus has satisfied the requirement 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. **jardiance-generic.cfd**: Transferred

PANELLISTS

Name	**Victor Garcia Padilla**

DATE OF PANEL DECISION 2025-06-09

Publish the Decision