

ADMINISTRATIVE PANEL DECISION

Boehringer Ingelheim International GmbH v. Taylor Connor, Connor Case No. D2024-4263

1. The Parties

The Complainant is Boehringer Ingelheim International GmbH, Germany, represented by Nameshield, France.

The Respondent is Taylor Connor, Connor, United States of America.

2. The Domain Name and Registrar

The disputed domain name <jardiance-empagliflozin.com> is registered with CNOBIN Information Technology Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 16, 2024. On October 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 22, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 20, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on November 25, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a German family-owned pharmaceutical group with a history dating back to 1885, originally established in Ingelheim am Rhein. As an internationally recognized, research-focused pharmaceutical company, it has grown to rank among the top 20 global pharmaceutical firms, employing over 53,500 people. In 2023, the Boehringer group achieved net sales of approximately EUR 25.6 billion. One of its key trademarks is JARDIANCE, a prescription medication used to treat type 2 diabetes and related complications.

The Complainant holds an extensive international trademark portfolio for the JARDIANCE trademark, including International Trademark Registration No. 981336 for JARDIANCE, registered on September 3, 2008.

The Complainant also maintains a robust online presence, with its official domain name for JARDIANCE branded products being <jardiance.com>, registered on April 30, 2008.

As regards the term “EMPAGLIFLOZIN” used in the disputed domain name, the Panel conducted limited factual research into matters of public record and found that, according to several dictionaries and publications from medical institutes, empagliflozin is a medication used in the management and treatment of type 2 diabetes mellitus. Furthermore, empagliflozin, sold under the brand name JARDIANCE (among others), is an antidiabetic medication used to improve glucose control in individuals with type 2 diabetes.

The disputed domain name, registered on August 12, 2024, resolves to a website resembling an online store that offers candies and nuts with the legend “Cheapest Place to Buy Jardiance”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

(1) The disputed domain name is confusingly similar to the Complainant’s trademark JARDIANCE, because it incorporates it in its entirety. The addition of the term “EMPAGLIFLOZIN” (a medical term) is insufficient to negate the finding of confusing similarity to the JARDIANCE trademark. The inclusion of the generic Top-Level Domain (gTLD) “.com” does not alter the overall impression of the disputed domain name as being associated with the Complainant’s trademark.

(2) The Respondent has no legitimate interests in respect of the disputed domain name. The Respondent is not identified in the Whois database as having any connection to the disputed domain name. The Respondent is not affiliated with the Complainant in any manner. The Complainant has not authorized or licensed the Respondent to use the JARDIANCE trademark or to register the disputed domain name. The disputed domain name resolves to an online candy shop, while registering a disputed domain name that includes a registered trademark in order to use it to offer the products or services of competitors is not considered a legitimate use.

(3) The Respondent registered and used the disputed domain name in bad faith. The disputed domain name is confusingly similar to the Complainant's distinctive trademark JARDIANCE and was registered several years after the trademark's registration. The Respondent's awareness of the Complainant and its trademark at the time of registration constitutes evidence of bad faith. The Respondent is using the Complainant's trademark within the disputed domain name and website address to attract, confuse, misdirect, and divert internet traffic intended for the Complainant to the Respondent's website. This intentional use of the disputed domain name to attract users for commercial gain, by purporting to offer products manufactured by the Complainant and its competitors, creates a likelihood of confusion regarding the source, sponsorship, affiliation, or endorsement of the Respondent's website and goods. Such conduct constitutes an abuse of the disputed domain name, as well as an infringement upon the Complainant's goodwill and reputation, thereby establishing use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, in a UDRP complaint, a complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint. The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

The Panel notes that it undertook limited independent research as the Panel consider such information useful to assessing the case merits and reaching a decision. Specifically, the Panel noticed the evidence of use provided by the Complainant, and reviewed the website linked to the disputed domain name to gather additional information about the Respondent's use of the disputed domain name. Additionally, the Panel consulted dictionaries and encyclopedias to clarify the term "EMPAGLIFLOZIN", which appears alongside the Complainant's trademark, JARDIANCE, in the disputed domain name. This research was conducted in accordance with paragraph 10 of the Rules. Such an approach aligns with the majority view of panels regarding their capacity to conduct independent research. [WIPO Overview 3.0](#), section 4.8.

The Panel emphasizes that this research was limited to clarifying matters of public record.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark JARDIANCE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trademark is reproduced within the disputed domain name, followed by a hyphen and the term "EMPAGLIFLOZIN". Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The addition of the gTLD ".com" shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant has provided evidence that it owned the JARDIANCE trademark long before the date that the disputed domain name was registered.

The Panel finds that the Respondent is neither a licensee of the Complainant nor affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to use its JARDIANCE trademark in a domain name or otherwise. The Complainant has also provided evidence that the Respondent is not commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

Although the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name, the Panel must assess the evidence provided by the Complainant to determine whether the Complainant has established that the Respondent does not possess any rights or legitimate interests in the disputed domain name.

The disputed domain name resolves to a website that purports to be an online candy and nuts shop. The Complainant asserts that the disputed domain name incorporates a registered trademark and is being used to offer products or services that compete with those of the Complainant. The Complainant refers to prior panel decisions that have held such use of a domain name – offering or linking to competing goods and services – to not constitute bona fide use and to confer no rights or legitimate interests upon the respondent.

The Panel notes the evidence provided by the Complainant, which offers candy and nuts products with the legend: "Cheapest Place to Buy Jardiance".

The Panel finds that the nature of the disputed domain name, being confusingly similar to the Complainant's trademark JARDIANCE and containing the term "EMPAGLIFLOZIN", which clearly refers to the Complainant's products and business, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name, thereby satisfying paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. [WIPO Overview 3.0](#), section 4.2.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Complainant has submitted evidence that the Respondent registered the disputed domain name long after the Complainant registered its JARDIANCE trademark. Given that the Complainant's trademark has been registered for a long time, it is highly unlikely that the Respondent did not know of the Complainant and its JARDIANCE mark prior to the registration of the disputed domain name. Addition of a term "EMPAGLIFLOZIN", which stands for a medication sold under the Complainant's JARDIANCE trademark, strengthens this conclusion.

Furthermore, the Panel is also of the view that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online 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 in terms of paragraph 4(b)(iv) of the Policy. Commercial gain may include the respondent gaining or seeking reputational and/or bargaining advantage, even where such advantage may not be readily quantified. [WIPO Overview 3.0](#), section 2.5.3.

The disputed domain name is an exact match for the Complainant's JARDIANCE trademark with the addition of the term "EMPAGLIFLOZIN". Where a mark has built up goodwill through substantial activities, including via a particular Complainant's domain name <jardiance.com> over a lengthy period, the deliberate and opportunistic registration of the disputed domain name by an unauthorized party is highly likely to lead to confusion with the Complainant's trademark, if not inevitably so.

Given the circumstances of this case, the Panel finds an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant's website.

The Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered and is being used in bad faith. In light of the above, the third element under paragraph 4(a)(iii) of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <jardiance-empagliflozin.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: December 5, 2024