

## **ADMINISTRATIVE PANEL DECISION**

Boehringer Ingelheim International GMBH v. Jian Feng Yin, Shan Xi Zhong Ge Chuang Ke Ke Ji You Xian Gong Si, Sima Xingwei, and Janis Yan  
Case No. D2023-5251

### **1. The Parties**

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

The Respondents are Jian Feng Yin, Shan Xi Zhong Ge Chuang Ke Ke Ji You Xian Gong Si, China, Sima Xingwei, China, and Janis Yan, China.

### **2. The Domain Names and Registrar**

The disputed domain names <jardiance-coupons.wtf>, <jardiance1.space>, <the-jardiance.shop>, and <the-jardiances.shop> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 21, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 21, 2023.

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 Respondents of the Complaint, and the proceedings commenced on January 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 24, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on January 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.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is a German company operating in the pharmaceutical field and owning several trademark registrations for JARDIANCE in relation to a prescription medicine for the treatment of diabetes, among which the following one:

- International Trademark Registration No. 981336 for JARDIANCE, registered on September 3, 2008, also extended to China.

The Complainant also operates on the Internet, owning several domain name registrations including JARDIANCE, among which <jardiance.com>, registered on April 30, 2008.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain names were registered on the following dates: <jardiance-coupons.wtf> on November 20, 2023, <jardiance1.space> on November 21, 2023, <the-jardiance.shop> on November 17, 2023, and <the-jardiances.shop> on November 20, 2023. All the disputed domain names resolve to parking pages with pay-per-click ("PPC") commercial links.

#### **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 names.

Notably, the Complainant states that the disputed domain names are confusingly similar to its trademark JARDIANCE.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. All the disputed domain names resolve to parking pages with commercial links.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark JARDIANCE is known in relation to a prescription medicine for the treatment of diabetes. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names to attract, for commercial gain, Internet users to the Respondent's websites, creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites, qualifies as bad faith registration and use.

## **B. Respondents**

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) section 4.3.

## **6. Discussion and Findings**

### **6.1 Procedural issue - Consolidation of Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain names registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain names registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that all the disputed domain names follow a very similar naming pattern, they have been registered in the same short period of time, namely between November 17 and November 21, 2023, they belong to registrants all based in the same city in China, namely Xi An, Shaanxi, and they all share the same Registrar.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain names registrants (referred to below as “the Respondent”) in a single proceeding.

## 6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### 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 names. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark JARDIANCE is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here “coupons”, “1”, “s”, “the” and two hyphens, may bear on assessment of the second and third elements, the Panel finds the addition of such terms and elements does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain (“gTLD”), in this case “.wft”, “.space”, and “.shop” is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds 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.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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 names. 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.

Having reviewed the present record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

All the disputed domain names resolve to parking pages with PPC commercial links. The use of a disputed 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 trademark.

[WIPO Overview 3.0](#), section 2.9.

The Panel therefore concludes that the disputed domain names are not being used in connection with a bona fide offering of goods or services.

Moreover, the Panel finds that the composition of all the disputed domain names carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

[WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

### **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.

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, regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademark JARDIANCE as a prescription medicine for the treatment of diabetes is clearly established, and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the confusingly similar disputed domain names.

The Panel finds that the disputed domain names are also used in bad faith since in the relevant parking pages there are PPC links, even in the case where they were automatically generated, referring to several commercial activities, and the Respondent cannot disclaim responsibility for the parking pages content. [WIPO Overview 3.0](#), section 3.5. The Panel therefore notes that the disputed domain names are being used in bad faith since the Respondent is trying to attract Internet users to its websites for commercial gain, by creating likelihood of confusion with the Complainant's trademark as to the disputed domain names' source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant's business.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain names in order both to disrupt the Complainant's business, and to attract Internet users to its websites in accordance with paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain names, which include the Complainant's trademark in its entirety with the mere addition of the terms "coupons", "1", "s", "the" and two hyphens, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

## **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 names <jardiance-coupons.wtf>, <jardiance1.space>, <the-jardiance.shop>, and <the-jardiances.shop> be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: February 6, 2024