

ADMINISTRATIVE PANEL DECISION

Bayer AG v. Melissa Solis, Bayer / Melissa Solis, Bayer Careers / Melissa Solis, bayer careers / Melissa Solis, Bayer
Case No. D2022-4127

1. The Parties

The Complainant is Bayer AG, Germany, represented by BPM Legal, Germany.

The Respondent is Melissa Solis, Bayer, Canada / Melissa Solis, Bayer Careers, United States of America ("United States") / Melissa Solis, bayer careers, United States / Melissa Solis, Bayer, United States.

2. The Domain Names and Registrar

The disputed domain names <bayer-career.com>, <bayer-careers.com>, <career-bayer.com>, <careers-bayer.com> are registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 2, 2022. On November 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 2, 2022, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 2022, 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 November 11, 2022.

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 November 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 14, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on January 6, 2023. 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 Bayer AG, a global enterprise with core competencies in the fields of healthcare, nutrition and plant protection. The company name “Bayer” dates back to 1863 and the Complainant is represented by over 374 consolidated companies in 83 countries and has more than 99,000 employees worldwide.

The Complainant is the owner of about 700 registrations and pending applications of the word mark “BAYER” alone, including the following examples:

- International trademark No. 1462909 for BAYER, registered since November 28, 2018;
- International trademark No. 1476082 for BAYER, registered since December 10, 2018.

The Complainant also owns hundreds of domain names consisting of the mark BAYER, including <bayer.com> and <bayer.us>.

The disputed domain name <bayer-career.com> was registered on December 28, 2021, the disputed domain name <bayer-careers.com> was registered on December 14, 2021, the disputed domain name <career-bayer.com> was registered on December 28, 2021, and the disputed domain name <careers-bayer.com> was registered on December 13, 2021, and all of them are inactive.

5. Parties’ Contentions

A. Complainant

The Complainant says that as a result of the exclusive and extensive use, its BAYER trademarks have acquired a significant goodwill, are widely known and that previous decisions decided under the UDRP for over 20 years have found that the Complainant’s BAYER trademarks are considered as well known.

According to the Complainant, the disputed domain names are part of the series of frauds that the Complainant is currently facing in which persons who might be interested in working for the Complainant are fraudulently contacted by third parties to defraud them of money. The Complainant also informed that it has already obtained several decisions under the UDRP in this context.

The Complainant argues that the disputed domain names fully incorporate the well-known BAYER trademarks and are confusingly similar to them. The Complainant adds that the Internet user will clearly recognize the well-known BAYER trademarks and that the additional words “career” and “careers” are merely generic and not suitable to eliminate the similarity between the Complainant’s trademark and the disputed domain names.

The Complainant alleges that BAYER is obviously connected with the Complainant and its products and that it has not licensed or otherwise permitted the Respondent to use any of its trademarks and has not permitted the Respondent to apply for or use any domain name incorporating its trademarks.

In addition, the Complainant says that there is no evidence that the Respondent has made a *bona fide* offering of goods or services and/or a legitimate noncommercial or fair use of the disputed domain names. The Complainant informs that there is also no evidence that the Respondent is commonly known by the disputed domain names.

Furthermore, the Complainant mentions that the Respondent has registered and used the disputed domain names in opportunistic bad faith due to the following main reasons:

- the Respondent has been involved in a total number of 38 proceedings under the UDRP, which all resulted in the transfer of the disputed domain names and which included other job and career related domain names, reason why the Respondent is apparently a serial cybersquatter engaged in deliberately targeting trademark owners;
- the Respondent has not actively used but merely passively held the disputed domain names;
- the Complainant's BAYER trademarks are highly distinctive and well known and it is unconceivable that the Respondent should not be aware of them when registering the disputed domain names;
- the Respondent's use of the disputed domain names is qualified to disrupt the Complainant's business and it is capable of reducing the number of visitors to the Complainant's website.

Finally, the Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of Respondents

Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1, paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. When considering a complaint filed against multiple respondents, section 4.11.2 of the [WIPO Overview 3.0](#) states that "panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

Considering the Complainant's request for consolidation of multiple Respondents, the Panel finds that the disputed domain names are under common control for the following main reasons:

- all the disputed domain names were registered in December 2021 using the same privacy service and the same registrar;
- the disputed domain names share similar domain name construction by adding the term "career/careers" to the Complainant's BAYER trademark;
- the Whois information of all the disputed domain names shows that "Melissa Solis" is the registered owner.

Additionally, Respondent has not objected to the consolidation or voiced any rebuttal regarding the consolidation request made by the Complainant.

The Panel finds that consolidation would be fair and equitable, and refers to the four registrants as the "Respondent" throughout the decision.

6.2 Substantive Issues

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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

The evidence presented in the Complaint demonstrates that the Complainant is the owner of numerous trademark registrations for BAYER around the world.

The disputed domain names incorporate the Complainant's trademark BAYER in its entirety. The addition of the terms "career/careers" does not avoid a finding of confusing similarity between the disputed domain names and the Complainant's trademark.

It is the general view among UDRP panels 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 of the UDRP. See section 1.8 of the [WIPO Overview 3.0](#).

Also, as numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark, is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark BAYER.

There is no evidence that the Respondent is commonly known by the disputed domain names.

There is also no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Moreover, the construction of the disputed domain names themselves is such to carry a risk of implied affiliation that cannot constitute fair use. The addition of the words "career" and "careers" to the Complainant's trademark in the disputed domain names gives the idea that the disputed domain names refer to the Complainant's "staff recruitment" official webpage. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain names, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain names under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The trademark BAYER is registered by the Complainant in several jurisdictions and has been used since a long time. Also, the Complainant registered many different domain names consisting of the mark BAYER.

The disputed domain names reproduce the Complainant's trademark BAYER in its entirety and the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant's BAYER mark is distinctive, widely known and has a strong worldwide and online visibility. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a well-known mark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Complaint demonstrates that there is no other reason for the use and registration of the disputed domain names than to take any advantage of the fame of the Complainant's trademark, with the intent to deceive Internet users into believing that the disputed domain names are associated with the Complainant. The Respondent obviously knew of the Complainant's mark when registering the disputed domain names.

The disputed domain names are passively held. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith. The Panel finds that passive holding of the disputed domain names does not in the circumstances of this case prevent a finding of bad faith.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith" (see also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, [WIPO Case No. D2002-0787](#)).

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that the inherently misleading disputed domain names belong to or are associated with the Complainant.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and are being used in bad faith.

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 <bayer-career.com>, <bayer-careers.com>, <career-bayer.com>, and <careers-bayer.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: January 19, 2023