

ADMINISTRATIVE PANEL DECISION

Bayer AG v. Michele Maraponte
Case No. D2022-4639

1. The Parties

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

The Respondent is Michele Maraponte, Belgium.

2. The Domain Name and Registrar

The disputed domain name <bayer-global.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 3, 2022. On December 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 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 December 8, 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 December 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on January 7, 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 and its predecessors have been in existence and operating under the Bayer name since 1863. In 1888, the Complainant began manufacturing and marketing pharmaceutical products and has sold them under the BAYER trademark since that time. The Complainant has over 300 affiliates and over 100,000 employees worldwide. The Complainant manufactures and sells numerous products, including human pharmaceuticals and medical care products, diagnostic products and agricultural chemicals.

The Complainant is the owner of about 700 registrations and pending applications of the word mark "BAYER" alone, including the international trademarks nos. 1462909 and 1476082 for "BAYER", registered since November 28, 2018, and December 10, 2018, respectively.

The Complainant and its subsidiaries own hundreds of domain name registrations containing the BAYER mark, including <bayerglobal.com>, <bayer.com>, <bayer.com.pl>, and <bayer.us>.

The Respondent registered the disputed domain name on October 25, 2022. The disputed domain name is currently inactive.

5. Parties' Contentions

A. Complainant

The disputed domain name fully incorporates the well-known BAYER marks and is confusingly similar to such marks. It is well established that confusing similarity is given where a trademark is recognizable as such within the domain name. In the present case, the Internet user will clearly recognize the well-known BAYER marks. The additional word "global" is merely generic and not suitable to eliminate the similarity between the Complainant's trademark and the disputed domain name.

The BAYER marks are well known, and obviously connected with the Complainant and its products. "Bayer" is not a word any market participant or other domain registrant would legitimately choose unless seeking to create an impression of an association with the Complainant.

The Complainant 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 the BAYER marks. These circumstances themselves are sufficient to constitute *prima facie* showing by the Complainant of absence of rights or legitimate interests in the disputed domain name on the part of the Respondent.

There is no evidence of the Respondent's use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

There is no evidence which suggests that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or is commonly known by the disputed domain name or the name "bayer-global."

Based on the Complainant's high profile worldwide, it is inconceivable that the Respondent registered the disputed domain name unaware of the Complainant and its rights in its highly distinctive and well-known BAYER marks.

The fact that the Respondent is not actively using but merely passively holding the disputed domain name does not obstruct a finding of bad faith use under the Policy as, in the present case, such passive holding of the disputed domain name is equal to active use.

The fact that the Respondent registered a domain name which includes a trademark that is obviously connected with the Complainant and its products also supports the finding of bad faith as the very use of such domain name by someone with no connection with the products suggests opportunistic bad faith.

The registration of the disputed domain name by the Respondent also constitutes an abusive threat hanging over the head of the Complainant, which also supports a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the famous BAYER trademark throughout the world.

The addition of the term "-global" does not prevent a finding of confusing similarity as the Complainant's BAYER mark is clearly recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Accordingly, the disputed domain name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Respondent has not been commonly known by the disputed domain name. The fact that the Respondent obtained the disputed domain name years after the Complainant had begun using its globally famous BAYER mark, indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name, and rather the nature of the disputed domain name itself, including the Complainant's well-known BAYER mark in its entirety, with the term "-global", suggests that it was registered to eventually impersonate or falsely suggest sponsorship or endorsement by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)).

In absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered years after the Complainant first registered and used its BAYER mark. The evidence provided by the Complainant with respect to the extent of use and global fame of its

BAYER mark combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the disputed domain name was registered, the Respondent undoubtedly knew of the Complainant's widely-known BAYER mark, and knew it had no rights or legitimate interests in the disputed domain name.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names 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 section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel finds that the only plausible basis for registering and passively holding the disputed domain name is for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the disputed domain name has been registered and is 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 name, <bayer-global.com>, be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: January 13, 2023