

ADMINISTRATIVE PANEL DECISION

Bayer AG v. camron Senger
Case No. D2022-4128

1. The Parties

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

The Respondent is camron Senger, Switzerland.

2. The Domain Name and Registrar

The disputed domain name <bayer-science.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 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 name. On November 2, 2022, 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 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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 8, 2022.

The Center appointed Ezgi Baklaci Güلكokar as the sole panelist in this matter on December 29, 2022.

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, Bayer AG, based in Germany is a global enterprise with the main practice area in the fields of healthcare, nutrition and plant protection. The company name BAYER dates back to 1863; and the BAYER trademark has been used on pharmaceutical products since 1888.

The Complainant owns numerous trademarks for the stand alone BAYER trademark, *inter alia* BAYER International trademark registration no. 1462909, registered since November 28, 2018 and BAYER with International trademark registration no. 1476082, registered since December 10, 2018.

In addition, the Complainant and its subsidiaries owns many domain name registrations containing the trademark BAYER, for instance <bayer.com> which display information about Bayer companies as well as domain names <bayerscience.com>, <bayer.com.pl>, and <bayer.us>. A simple Google search for the wordmark BAYER leads nearly all results related to the Complainant.

The disputed domain name was registered on February 22, 2022. As of the date of this Decision, the disputed domain name is resolving to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered BAYER mark because it consists of its trademark in its entirety together with the term "science" and the generic top-level domain ("gTLD") ".com". Additionally, the disputed domain is easily associated with the Complainant as it already owns the domain name <bayerscience.com>.

Rights or legitimate interests

The Complainant contends that the BAYER trademarks are well-known and obviously connected with the Complainant and its products.

The Complainant argues that the Respondent is not licensed or authorized to use the Complainant's trademark. Therefore, the Respondent has no rights to any trademark consisting of or incorporating Complainant's mark, or to the disputed domain name.

Furthermore, there is no evidence of the Respondent's use of, or preparation to use the disputed domain name; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

The disputed domain name was registered and used in bad faith

The Complainant claims that the Respondent is aware of the Complainant and its well-known trademarks, especially considering the fact that the Respondent (at least under the privacy service) has been involved in several UDRP cases for BAYER related domains (including *Bayer AG v. Withheld for Privacy Purposes Privacy service provided by Withheld for Privacy ehf / Todd Peter*, WIPO Case No. [D2021-2726](#), and *Bayer*

AG v. Privacy Service Provided by Withheld for Privacy ehf / Williams Parker; Andrew Evera; Mukib Mukib, WIPO Case No. [D2022-1693](#)).

The Complainant claims that Respondent's choice of a well-known trademark which is obviously related to the Complainant and its products supports the finding of a bad-faith.

Further, the disputed domain name does not resolve to an active website, and the fact that the Respondent continues to hold the disputed domain name is a clear sign of bad-faith.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks 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.

A. Identical or Confusingly Similar

The disputed domain name consists of the registered trademark BAYER together with the term "science". The Panel finds that the disputed domain name is confusingly similar to the registered trademark BAYER (See e.g., WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7).

The element "science" in the disputed domain does not prevent the finding of confusingly similarity as the Complainant's trademark BAYER remains clearly recognizable ([WIPO Overview 3.0](#), section 1.8).

Moreover, the gTLD ".com" in the disputed domain name is disregarded in the confusing similarity test, as it does not form part of the comparison as it is a standard registration requirement for technical reasons ([WIPO Overview 3.0](#), section 1.11).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, *i.e.*, 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. 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 Panel notes that there is no evidence showing that the Respondent holds any rights for the term “bayer”. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant’s trademark BAYER.

The case file also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. Further, the Panel notes that there is no evidence of the Respondent’s use of, or preparation to use the disputed domain; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or any legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s trademark ([WIPO Overview 3.0](#), Section 3.1).

Paragraph 4(b)(ii) of the Policy provides that registration of a domain name in order to prevent the owner of a trademark or service mark from reflecting the mark in a corresponding domain name is evidence of bad faith registration and use of the domain name. The Respondent’s registration of the disputed domain name prevents the Complainant from reflecting its service mark in a corresponding domain name.

Further, the Panel finds that at the time the disputed domain name was registered the Respondent was aware of the trademark BAYER as Complainant’s trademark registrations predate the registration date of the disputed domain name. 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 ([WIPO Overview 3.0](#), section 3.1.4). Respondent should have known about Complainant’s rights, and such information can be reached by a quick online search (See *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

The Panel also finds that the registration of the disputed domain name constitutes an abusive threat hanging over the Complainant. (See *Digital Platform Iletisim Hizmetler A.S. v. Digiturk Co.*, WIPO Case No. [D2008-0111](#), it is fair to assume that the Respondent’s intentions are predatory and represent an unfair, abusive threat hanging over the head of the Complainant.”).

Further the disputed domain name does not resolve to an active website. The Panel finds that the current inactive status of the disputed domain name does not prevent the finding of bad faith (WIPO Overview, section 3.3).

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name has been registered and used in bad faith by the Respondent.

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-science.com> be transferred to the Complainant.

/Ezgi Baklacı Gülkökar/

Ezgi Baklacı Gülkökar

Sole Panelist

Date: January 11, 2023