

## ADMINISTRATIVE PANEL DECISION

Bayer AG v. Lyubomir Chagadaev, FOP Lyubomir Chagadaev  
Case No. D2025-0174

### 1. The Parties

The Complainant is Bayer AG, Germany, represented by pm.legal, Germany.

The Respondent is Lyubomir Chagadaev, FOP Lyubomir Chagadaev, Ukraine.

### 2. The Domain Names and Registrar

The disputed domain names <bayerstrainapp.shop>, <bayerstrainapp.site>, <bayerstrainapp.space>, <bayerstrainapp.website>, <bayerstrainhq.shop>, <bayerstrainhq.site>, <bayerstrainhq.space>, <bayerstrainhq.website>, <bayerstrainhub.shop>, <bayerstrainhub.site>, <bayerstrainhub.space>, <bayerstrainhub.website>, <bayerstrainlabs.shop>, <bayerstrainlabs.site>, <bayerstrainlabs.space>, <bayerstrainlabs.website>, <bayerstrainly.shop>, <bayerstrainly.space>, <bayerstrainly.website>, <bayerstrain.shop>, <bayerstrain.space>, <bayerstrain.website>, <openbayerstrain.shop>, <openbayerstrain.space>, and <openbayerstrain.website> are registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2025. On January 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 17, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 21, 2025, 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 January 29, 2025.

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 January 31, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 21, 2025.

The Center appointed Tommaso La Scala as the sole panelist in this matter on February 27, 2025. 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 well-known German company with its history dating back to 1863 and operates in 80 countries with more than 99,000 employees worldwide, offering a wide range of pharmaceutical and healthcare-related products and services under the BAYER trademark.

The Complainant owns, among others, the following registrations for BAYER:

- International trademark registration No. 1462909 BAYER registered on November 28, 2018, in classes 1, 3, 5, 9, 10, 31, 35, 41, 42, and 44, designating various jurisdictions;
- International trademark registration No. 1476082 BAYER registered on December 10, 2018, in classes 7, 8, 11, 16, 20, 24, 25, 28, 30, 32, 37, 38, 39, 40, 43, and 45, designating various jurisdictions including Ukraine;
- European Union trademark registration No. 017903200 BAYER registered on September 21, 2018, in classes 7, 8, 11, 16, 20, 24, 25, 28, 30, 32, 37, 38, 39, 40, 43, and 45.

The Complainant promotes its business at "www.bayer.com".

The disputed domain names <bayerstrain.shop>, <bayerstrain.space>, <bayerstrain.website>, <bayerstrainapp.shop>, <bayerstrainapp.site>, <bayerstrainapp.space>, <bayerstrainapp.website>, <bayerstrainhq.shop>, <bayerstrainhq.site>, <bayerstrainhq.space>, <bayerstrainhq.website>, <bayerstrainhub.shop>, <bayerstrainhub.site>, <bayerstrainhub.space>, <bayerstrainhub.website>, <bayerstrainlabs.shop>, <bayerstrainlabs.site>, <bayerstrainlabs.space>, <bayerstrainlabs.website>, <bayerstrainly.shop>, <bayerstrainly.space>, <bayerstrainly.website>, <openbayerstrain.shop>, <openbayerstrain.space>, and <openbayerstrain.website> were all registered on February 6, 2024, and they redirect to different websites apparently with commercial purpose. In particular, the disputed domain names <bayerstrainapp.website>, <bayerstrainhq.shop>, <bayerstrainhq.site>, <bayerstrainhq.space>, and <bayerstrainhq.website> resolve to an identical website, displaying the Complainant's trademark and logo, and purportedly offering for sale the Complainant's products. The website contains a copyright notice referring to the Complainant's Hungarian subsidiary Bayer Hungária and also contains links to a third party online pharmacy which purports to offer not only the Complainant's products but also products from the Complainant's competitors. The other disputed domain names redirect to commercial websites providing various products and/or services, such as glasses, strength training program, online learning, dietary supplements, etc.

#### **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 the disputed domain names are confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Procedural considerations – Respondent's location**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. The location of the Respondent, Lyubomir Chagadaev, FOP Lyubomir Chagadaev, disclosed by the Registrar, appears to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification. It is therefore appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue. The Panel notes that the record shows that the Written Notice could not be delivered to the postal address of the Respondent, as disclosed by the Registrar. However, it appears that the Notification of Complaint emails were delivered to the Respondent's email address, as provided by the Registrar. Therefore, there is no evidence that the case notification was not successfully delivered to the disclosed Respondent's email address. The Panel concludes that the Respondent, allegedly located in Ukraine, has been given a fair opportunity to present its case so that the administrative proceeding shall take place with due expedition. Therefore, the Panel will proceed to a Decision accordingly. Previous UDRP panels addressing this procedural issue with the similar situation has come to a similar conclusion. See *Netbet Entreprises Ltd v. Privacy Service provided by Withheld for Privacy ehf / Vladimir Vladimir, Crowd inc*, WIPO Case No. [D2022-1420](#); *Artemis Investment Management LLP v. Regery Ukraine*, WIPO Case No. [D2023-2289](#); *Ares Management LLC v. Pavel Rubtsov, Alexey Sokolov*, WIPO Case No. [D2023-0997](#).

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, 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 Panel finds the mark is recognizable 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.

As a matter of fact, the addition of words such as "strain", "app", "hq", "hub", "labs", "strainly", and "open" to the BAYER mark 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.

Based on the available record, 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.

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.

Having reviewed the available 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, particularly by asserting that the Respondent is not affiliated with it in any way and that it has never authorized the Respondent to use its trademark as part of 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.

The Complainant further contends that the Respondent does not make any bona fide use nor a legitimate noncommercial or fair use of the disputed domain names. In addition, some of the disputed domain names redirect to an identical website displaying the Complainant’s trademark and logo, and purportedly offering for sale the Complainant’s products, which may create the false impression that these disputed domain names are related to the Complainant’s business and this circumstance has led the Panel to believe there might be a phishing purpose behind the registration. There is no proper disclaimer which clarifies the non-existent relationship between the Respondent and the Complainant on the website, and the website contains links redirecting to a third party website. Therefore, such use is not bona fide under the Policy and does not comply with the Oki Data criteria. [WIPO Overview 3.0](#), section 2.8.

Further, panels have held that the use of a domain name for illegal or illegitimate activity - here impersonation/passing off - can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

As for the other disputed domain names, they are all apparently used in connection with a wide variety of commercial websites. Under the circumstances of this case, such use is not bona fide under the Policy either.

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.

In the present case, the Panel notes that the Complainant claims the Respondent has registered some of the disputed domain names and uses them to redirect toward an ideal website displaying the Complainant’s trademark and logo, and purportedly offering for sale the Complainant’s products, which may create the false impression that these disputed domain names are related to the Complainant’s business. The website contains links to a third party online pharmacy which also offers the Complainant’s competitors’ products for sale. Such conduct cannot amount to the use of these disputed domain names in good faith, since it is very likely “such redirection will allow the Respondent to divert future users to competing web sites after having built up mistaken confidence in the source of the content is a reasonable one” (see *Altavista Company v. Brunosousa, aka Bruno Sousa*, WIPO Case No. [D2002-0109](#)).

As for the other disputed domain names, they are apparently all used in relation with various commercial websites dealing with goods and/or services, some of which are related to the Complainant's business (e.g., dietary supplements, diabetes treatment, etc.).

The Complainant has substantiated the fact that the BAYER trademark is widely known at an international level and benefits from a high level of public awareness (circumstance confirmed by several earlier UDRP decisions). The Respondent did not provide any Response to the Complaint.

The Panel infers from the above that the Respondent acted in bad faith when it registered the disputed domain names, and clearly had the Complainant's trademark in mind when it registered the disputed domain names.

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 the third element 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 names <bayerstrainapp.shop>, <bayerstrainapp.site>, <bayerstrainapp.space>, <bayerstrainapp.website>, <bayerstrainhq.shop>, <bayerstrainhq.site>, <bayerstrainhq.space>, <bayerstrainhq.website>, <bayerstrainhub.shop>, <bayerstrainhub.site>, <bayerstrainhub.space>, <bayerstrainhub.website>, <bayerstrainlabs.shop>, <bayerstrainlabs.site>, <bayerstrainlabs.space>, <bayerstrainlabs.website>, <bayerstrainly.shop>, <bayerstrainly.space>, <bayerstrainly.website>, <bayerstrain.shop>, <bayerstrain.space>, <bayerstrain.website>, <openbayerstrain.shop>, <openbayerstrain.space>, and <openbayerstrain.website> be transferred to the Complainant.

*/Tommaso La Scala/*

**Tommaso La Scala**

Sole Panelist

Date: March 13, 2025