

## **ADMINISTRATIVE PANEL DECISION**

Bayer AG v. Tu He  
Case No. D2025-2593

### **1. The Parties**

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

The Respondent is Tu He, Algeria.

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

The disputed domain name <bayerus.shop> is registered with Spaceship, Inc. USA (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2025. On July 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 2025, 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 (Redacted for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 9, 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 July 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2025.

The Center appointed Vinod K. Agarwal, as the sole panelist in this matter on August 13, 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**

According to the Complaint, the Complainant is a global enterprise in the fields of healthcare, nutrition, and plant protection. Global headquarters are located in Leverkusen, Germany. The company name Bayer dates back to 1863, when the firm of “Friedrich Bayer & Co.” was established in the town of Elberfeld, now part of the city of Wuppertal in Germany. In 1881, the name was transferred to a stock corporation called “Farbenfabriken vorm. Friedrich Bayer & Co.”. This company began manufacturing and marketing pharmaceutical products in 1888 and has sold such products under the BAYER trademark ever since that time.

The Complainant is represented by far over 350 consolidated companies in 80 countries. The Complainant, itself or through the sub-groups like HealthCare and Crop Science, does business on all the five continents, manufacturing and selling numerous products, inter alia, human pharmaceutical and medical care products, diagnostic products, and agricultural chemicals.

The Complainant is the owner of about 700 registrations and pending applications of the wordmark BAYER alone, including the International trademark registration Nos. 1462909 and 1476082 for BAYER, registered since November 28, 2018 and December 10, 2018, respectively (the “BAYER Mark”).

The Complainant’s registrations cover an extensive range of goods and services. The Complainant and its subsidiaries own a large number of domain name registrations containing the BAYER Mark, including <bayer.com>, <bayer.co.nz>, <bayer.com.au>, <bayer.co>, <bayer.be>, and <bayer.us>.

The Respondent has created the disputed domain name <bayerus.shop> on June 18, 2025. The expiry date of the said registration is June 18, 2026.

#### **5. Parties’ Contentions**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

##### **A. Complainant**

The Complainant contends that it has satisfied each of the aforesaid three elements required under the Policy for a transfer of the disputed domain name.

In relation to element (1), the Complainant has contended that the disputed domain name fully incorporates the well-known BAYER Mark and is confusingly similar to such a mark. It is further submitted by the Complainant that it is well established that the specific Top-Level Domain (“TLD”) is generally not an element of distinctiveness to be taken into consideration when evaluating the identity or confusing similarity between the Complainant’s trademark and the disputed domain name.

The Complainant has further contended that it is also well-established that confusing similarity is given where a trademark is recognizable as such within the domain name. In the present case, Internet users will clearly recognize the well-known BAYER Mark. The additional letters “us”, which is the country-code for the United States, is merely generic and not suitable to eliminate the similarity between the Complainant’s trademark and the disputed domain name.

In view thereof, the disputed domain name <bayerus.shop> is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

In relation to element (ii), the Complainant has contended that it is a consolidated principle that the burden of proof with regard to the rights or legitimate interests of the Respondent lies on the Complainant. However, satisfying the burden of proving a lack of the Respondent’s rights or legitimate interests in respect of a domain name according to paragraph 4(a) of the Policy is quite onerous, since proving a negative circumstance is always more difficult than establishing a positive one. Hence, the Complainant has shown prima facie evidence to shift the burden of production on the Respondent.

The BAYER Mark is 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 marks and has not permitted the Respondent to apply for or use any domain name incorporating the BAYER Mark. 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.

Further, there is also 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 “bayerus”.

The Respondent’s website offers various products, including the Complainant’s products at large discounts as well as products from the Complainant’s competitors, such as “St. Joseph Aspirin Pain Reliever”, “Bengay Ultra Strength Topical Pain Relief Cream”, and “Monterey Fruit Tree & Vegetable Systemic Soil Drench Treatment”. The website does not originate from the Complainant and has not been authorized in any way. The Respondent is not an authorized reseller, and the discounts advertised suggest that this is a scam website. The Respondent does not accurately disclose its relationship with the trademark owner. In fact, the Respondent pretends to be the Complainant as the website displays the name “BAYER” at the very top.

Under these circumstances, there is no doubt that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirement of paragraph 4(a)(ii) of the Policy is also satisfied.

In relation to element (iii), the Complainant contended that the Respondent has registered and is using the disputed domain name in bad faith.

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, since the Respondent offers the Complainant’s products (or counterfeits) for sale. The Respondent was demonstrably aware of the Complainant and its BAYER Marks when it registered the disputed domain name.

The Complainant has further contended that the Respondent’s bad faith use is evidenced by the fact that it has registered a domain name fully containing the Complainant’s highly distinctive and well-known BAYER Mark and uses such domain name in connection with a website offering the Complainant’s products without accurately and prominently disclosing its relationship with the Complainant. Furthermore, the Respondent’s website also refers to competing products. It is quite clear that the Respondent’s purpose is, by creating a

likelihood of confusion with the Complainant's marks, to divert traffic intended for the Complainant's website to its own. This qualifies as bad faith under paragraph 4(b)(iv) of the Policy as the Respondent's use of the disputed domain name attempts to attract for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website.

Furthermore, the Respondent's registration of the disputed domain name clearly prevents the Complainant from reflecting its trademarks in a corresponding domain name. In addition, as the elements expressly mentioned in paragraph 4(b) of the Policy are non-exhaustive, practice has regarded a number of other indications and aspects as establishing bad faith.

The Complainant has further contended that 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.

It is further established that the Respondent's use of the disputed domain name is qualified to disrupt the Complainant's business and that it is capable of reducing the number of visitors to the Complainant's website, may adversely affect the Complainant's business and therefore constitute bad faith.

For all of the foregoing reasons it is established that the Respondent has registered and used the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, the Complainant must prove the following aspects:

### **A. Identical or Confusingly Similar**

As has been mentioned above, according to paragraph 4(a) of the Policy, the Complainant must prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has provided sufficient evidence of its registration of the trademark BAYER. There is therefore no ambiguity or doubt regarding the Complainant's ownership rights in the said mark. The disputed domain name entirely incorporates the BAYER trademark. The addition of the geographical term "us" is inconsequential. It does not prevent a finding of confusing similarity between the disputed domain name and the trademark of the Complainant.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant. Accordingly, the requirement under the first element of the Policy has been satisfied.

### **B. Rights or Legitimate Interests**

According to paragraph 4(c) of the Policy, the Respondent may demonstrate its rights or legitimate interests in the disputed domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, 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; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has not filed any Response in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. According to the record, the Respondent is known by the name of Tu He. The Complainant has not authorized the Respondent to use its name and mark.

It is evident that the Respondent can have no legitimate interests in the disputed domain name. Further, in view of the fact that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark or to apply for or use the disputed domain name incorporating the mark of the Complainant and that nobody would use the word BAYER unless seeking to create an impression of an association with the Complainant. Further, the Respondent's display of the BAYER trademark on its webpage to offer competing, and purportedly counterfeit, products does not constitute a bona fide offering of goods or services.

Based on the evidence provided in the Complaint, the Panel finds that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on its website or location.

In the Complaint, the Complainant has contended that the primary aim of the Respondent is to mislead potential customers of the Complainant. The fact that the Respondent has registered the disputed domain name, which is confusingly similar to Complainant's trademark, is to direct users to pages in a similar line of business as the Complainant, offering competing and purportedly counterfeit products, demonstrated that the Respondent has registered the disputed domain name in bad faith. The Respondent's actions are with an intention to extract some commercial advantage from the Complainants' goodwill in the market. Therefore,

the Complainant has contended that the disputed domain name was registered or acquired by the Respondent primarily for the purpose of carrying on some business in competition to the Complainant.

Further, the Complainant's trademark has immense goodwill and reputation and is well known prior to the registration of the disputed domain name. Hence, Respondent is bound to have knowledge of the Complainant's trademark.

It is a systematic attempt by the Respondent to derive unfair advantage, wrongful commercial gains, and to mislead the public. The Respondent is not making a noncommercial or fair use of the disputed domain name. This and the other evidence submitted by the Complainant leads to the presumption that the disputed domain name was registered and used by the Respondent in bad faith.

The Panel concludes that the registration of the disputed domain name amounts to the registration and use of the disputed domain name in bad faith. Paragraph 4(a)(iii) of the Policy is satisfied.

## **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 <bayerus.shop> be transferred to the Complainant.

*/Vinod K. Agarwal/*

**Vinod K. Agarwal**

Sole Panelist

Date: August 27, 2025