

## ADMINISTRATIVE PANEL DECISION

Bayer Intellectual Property GmbH v. 唐孝兵 (tang xiao bing)  
Case No. D2025-3131

### 1. The Parties

The Complainant is Bayer Intellectual Property GmbH, Germany, represented by pm.legal, Germany.

The Respondent is 唐孝兵 (tang xiao bing), China.

### 2. The Domain Names and Registrar

The disputed domain name <levitrahk.com> is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. The disputed domain name <levitra.vip> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (collectively referred to the “Registrars”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 6, 2025. On August 6, 2025, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 7, 2025, the Registrars transmitted by email to the Center the verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 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 in English on the same day.

On August 8, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On the same day, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on August 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 4, 2025.

The Center appointed Qiang Ma as the sole panelist in this matter on September 14, 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 Bayer Intellectual Property GmbH, a limited liability company incorporated under the laws of Germany, who is also the IP holding company of Bayer AG, a global enterprise with core competencies in the fields of healthcare, nutrition, and plant protection.

The product LEVITRA is a prescription medicine that is used to treat erectile dysfunction (ED), which has been marketed by Bayer group since March 2003.

According to the Complaint, the Complainant owns numerous trademark registrations for LEVITRA worldwide, including International Registration No. 744146, registered on September 25, 2000, designating inter alia China.

Bayer group and affiliated companies are marketing the LEVITRA product using numerous domain name registrations, including <levitra.com>.

The Respondent registered the disputed domain name <levitrahk.com> on January 28, 2021 and the disputed domain name <levitra.vip> on July 27, 2019.

The disputed domain names are used in connection with websites purportedly offering products for sale, which are branded with the LEVITRA mark.

The websites prominently feature the Complainant's flame logo, which is also registered as a trademark in numerous countries and is used by the Complainant in connection with the sale of LEVITRA products. Furthermore, the websites also prominently feature a photo showing parts of Bayer Healthcare's building in the United States of America.

#### **5. Parties' Contentions**

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

The Complainant contends that its LEVITRA mark, used for a prescription medicine to treat erectile dysfunction since 2003, is well-known and registered worldwide, including in China, where the Respondent is located.

The Complainant contends that it has not licensed or otherwise permitted the Respondent to use its trademark or to register any domain name incorporating the LEVITRA mark. This establishes a prima facie case that the Respondent lacks rights or legitimate interests.

The Complainant contends that the registration and use of the disputed domain names were in bad faith because the Respondent was aware of the distinctive and famous LEVITRA mark, and the Respondent's websites offer counterfeit or unauthorized products for sale, which are branded with the Complainant's LEVITRA mark.

The Complainant requests 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: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain names are registered in ASCII characters and that the Respondent uses numerous English words on its websites, which are partly bilingual, suggesting that the Respondent can understand English. The Complainant also submitted that it is unable to communicate in Chinese and that conducting the proceeding in Chinese would cause undue delay and additional expense to the Complainant.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Substantive Issues**

#### **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 3.0](#), section 1.7.

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 entirety of the trademark LEVITRA is reproduced within the disputed domain names. As to <levitrahk.com>, the addition of the letters "hk" does not prevent a finding of confusing similarity. Accordingly, the disputed domain name <levitra.vip> is identical to the LEVITRA mark, while the disputed domain name <levitrahk.com> is confusingly similar to the mark, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Panel considers that the composition of the disputed domain names carries a risk of implied affiliation with the Complainant and cannot constitute fair use, as the disputed domain names effectively impersonate or suggest sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. 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 LEVITRA mark. These circumstances are sufficient to constitute prima facie showing by the Complainant of the absence of rights or legitimate interests in the disputed domain names on the part of the Respondent. See *GGG Filmproduktion und Vertrieb e.K. v. E4 Group and Frank Jensen*, WIPO Case No. [D2006-1177](#).

The respondent’s use may be permissible if it constitutes a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy. As articulated in *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), the respondent must, among other requirements, accurately and prominently disclose its relationship with the trademark holder.

Based on the evidence submitted by the Complainant, the Respondent fails to meet these criteria. The websites to which the disputed domain names resolve do not accurately disclose the Respondent’s relationship with the Complainant. To the contrary, the websites prominently feature the Complainant’s LEVITRA mark and logo and include a photograph of a building associated with the Complainant. This presentation creates the misleading impression that the websites are official or are otherwise operated, sponsored, or endorsed by the Complainant. Such a failure to disclose the lack of an official relationship, and indeed the creation of an implied affiliation, is fatal to any claim of a bona fide offering under the Policy.

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. 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 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 Respondent’s conduct falls squarely within the circumstances of bad faith described in paragraph 4(b)(iv) of the Policy. The Complainant’s LEVITRA mark is well-known, and it is inconceivable that the Respondent registered the disputed domain names incorporating this mark without knowledge of the Complainant and its rights. The Respondent then used the disputed domain

names to intentionally attempt to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the websites. This confusion is generated by the prominent use of the Complainant's mark and logo on the websites, which gives the false impression of an official affiliation that does not exist.

The Panel finds that the Complainant has established the third element of the Policy.

## **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 <levitrahk.com> and <levitra.vip> be transferred to the Complainant.

*/Qiang Ma/*

**Qiang Ma**

Sole Panelist

Date: September 28, 2025