

## **ADMINISTRATIVE PANEL DECISION**

Bayer Intellectual Property GmbH v. Bora Boracino  
Case No. D2025-3132

### **1. The Parties**

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

The Respondent is Bora Boracino, Taiwan Province of China.

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

The disputed domain names <levitrapoll.com> and <taiwanlevitra.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

### **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 Registrar a request for registrar verification in connection with the disputed domain names. On August 7, 2025, the Registrar transmitted by email to the Center its verification response 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 7, 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 August 8, 2025.

On August 7, 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 August 8, 2025, 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 Dr. Hong Xue as the sole panelist in this matter on September 10, 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 the IP holding company of Bayer AG, which is a global enterprise doing business on all five continents, manufacturing and selling human pharmaceutical and medical care products, diagnostic products, and other products. Bayer group has been marketing in many countries and regions the prescription medicine of LEVITRA to treat erectile dysfunction since March 2003. The Complainant owns many trademark registrations for LEVITRA in multiple jurisdictions.

The Complainant's trademark LEVITRA (No. 30005001) was first registered on pharmaceutical products in Germany on June 15, 2000. The Complainant then registered through the WIPO International trademark registration system the trademark LEVITRA (No. 744146) on September 25, 2000, designating numerous countries, including China and Japan.

According to the Whois search result provided by the Complainant, Bayer AG registered the domain name <levitra.com> on May 15, 2000.

The disputed domain names <levitrapoll.com> and <taiwanlevitra.com> were registered by the Respondent on January 16, 2025. The domain name registration information confirmed by the Registrar shows that the Respondent is an individual residing in Taiwan Province of China.

According to the evidence submitted by the Complainant, the disputed domain name <levitrapoll.com> is being used by a website named “乐威壮 正品壮阳药 特价中 台湾首选官网” (“Levitra authentic erectile dysfunction medicine, discounted prices, first choice authorized website in Taiwan”). The many pages of the website show the Complainant's trademark “LEVITRA®” at the top left and the picture of pharmaceutical carton of Levitra. The website contains the contents such as “乐威壮 10 分钟见效” (“Levitra, effective within 10 minutes”), “乐威壮正品购买” (“Levitra authorized purchase”) and a notice reading “Copyright 2025 © 台湾乐威壮” (Copyright 2025 © Taiwan Levitra).

The Complainant's evidence shows that the disputed domain name <taiwanlevitra.com> is being used by a website titled “乐威壮 台湾官方网站 正品保障 限时优惠抢购中” (“Levitra Taiwan authorized website, authenticity guaranteed, limited time offer on sale”). The webpage of the site shows the Complainant's trademark “LEVITRA®” and the pictures of pharmaceutical cartons of Levitra. The website contains the contents such as “15 分钟超快起效 有效治疗勃起障碍” (“Effect super quickly within 15 minutes, effectively treating erectile dysfunction”), “乐威壮 德国拜耳” (“Levitra, Bayer Germany”), and a notice reading “Copyright 2025 © 台湾乐威壮” (Copyright 2025 © Taiwan Levitra).

#### **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 names.

Notably, the Complainant contends that the disputed domain names fully incorporate the well-known LEVITRA mark and the additional terms “poll” and “taiwan”, which are generic or geographical, do not avoid a finding of confusing similarity. The disputed domain names are, therefore, confusingly similar to the Complainant’s mark.

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. The Respondent has no rights or legitimate interests in respect of the disputed domain names.

The websites available at the disputed domain names give the false impression that they are operated, authorized or at least approved by the Complainant. The Respondent is using the disputed domain names to operate websites that offer counterfeit products or unauthorized deals with the Complainant’s products. The Respondent has registered and used the disputed domain names in bad faith.

The Complainant requests that the disputed domain names <levitrapoll.com> and <taiwanlevitra.com> be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of Proceeding**

The language of the Registration Agreement for the disputed domain name 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 were registered in ASCII characters and the English word “poll” included in one of the disputed domain names and that many English words, such as “Copyright”, are used on its websites. The Complainant assumes that the Respondent can understand English. The Complainant contends that it would be unfairly disadvantaged if required to translate all the submissions into Chinese at substantial expenses. The Complainant also concerns that the proceeding will be unduly delayed.

The Respondent did not make any 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, and also noting that the disputed domain names are in English characters, that the Complainant’s evidence shows the websites at the disputed domain names contain English words, and that the Respondent does not object to the Complainant’s request for adopting English as the language of proceeding, 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 Panel finds the Complainant's LEVITRA mark is recognizable and distinctive within the disputed domain names <levitrapoll.com> and <taiwanlevitra.com>, irrespective of the generic word "poll" or geographic name "taiwan" suffixed or prefixed to the mark. Accordingly, the disputed domain names are confusingly similar to the LEVITRA 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.

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.

In addition, the Complainant's evidence shows that unauthorized drug marked as "Levitra" are being offered for sale on the websites at the disputed domain names. In such circumstances, the Panel finds that the Respondent's use of the disputed domain names for the sale of what appear to be counterfeit Levitra drugs can never confer rights or legitimate interests on it. [WIPO Overview 3.0](#), section 2.13.1.

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 has registered and is using the disputed domain names in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for sale of counterfeit or illegal pharmaceuticals, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel notes from the Complainant's evidence that the disputed domain names resolve to websites prominently displaying the Complainant's LEVITRA mark, images of Levitra pharmaceutical cartons, and commercial promotions for the so-called authentic Levitra on sale. These websites are presented as "authorized websites" and labelled as "Taiwan Levitra", although the Complainant has never permitted the Respondent to use LEVITRA mark in any form. In addition, the websites at the disputed domain name display "LEVITRA ®" and "Levitra, Bayer Germany", demonstrating that the Respondent was clearly aware that LEVITRA is the registered trademark for the medicine manufactured by Bayer in Germany.

The Panel finds that the sale of counterfeit Levitra drugs through the disputed domain names may endanger public health and that the Complainant has on the balance of probabilities proved the Respondent's bad faith as provided in paragraph 4(b)(iv) of the Policy, i.e. the Respondent has intentionally attempted 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 or of the counterfeit drugs offered on the websites.

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 <levitrapoll.com> and <taiwanlevitra.com> be transferred to the Complainant.

*/Dr. Hong Xue/*

**Dr. Hong Xue**

Sole Panelist

Date: September 25, 2025