

## **ADMINISTRATIVE PANEL DECISION**

**Bayer AG v. Maraponte Michele**  
**Case No. D2023-0206**

### **1. The Parties**

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

The Respondent is Maraponte Michele, France.

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

The disputed domain name <forbayer-global.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 January 17, 2023. On January 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names <bayers-pl.com>, <bayers-science.com>, and <forbayer-global.com>. On January 17, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, 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 28, 2023, removing the disputed domain names <bayers-pl.com> and <bayers-science.com> from the Complaint.

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 February 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on March 3, 2023. 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 global enterprise with core competencies in the fields of healthcare, nutrition, and plant protection. It owns about 700 registrations and pending applications of the word mark BAYER alone, including the International trademarks nos. 1462909 and 1476082 for BAYER registered since November 28, 2018, and December 10, 2018, respectively.

According to the Whois records, the disputed domain name was registered on November 2, 2022. The disputed domain name is not used in connection with an active website. The Complainant asserts that the disputed domain name may be part of a series of frauds that the Complainant is currently facing in which persons who might be interested in working for the Complainant are fraudulently contacted by third parties in order to defraud them of money.

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

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

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

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

This first element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the BAYER mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the BAYER mark in its entirety with the prefix "for" and followed by "-global", which do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's BAYER mark. See [WIPO Overview 3.0](#), section 1.8. The BAYER mark remains sufficiently recognizable for a showing of confusing similarity under the Policy.

Accordingly, the Panel finds that the Complainant has established this first element under the Policy.

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

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) it has not licensed or otherwise permitted the Respondent to use the BAYER mark in the disputed domain name, (2) use of the BAYER mark in the disputed domain name is not a legitimate noncommercial or fair use, and (3) there is no evidence of the Respondent's use of, or demonstrable preparations to use the disputed domain name in connection with any *bona fide* offering of goods or services.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing and nothing in the record otherwise tilts the balance in the Respondent's favor. The composition of the disputed domain name is such to carry a risk of implied affiliation to the Complainant, contrary to the fact, thus such composition cannot constitute fair use. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

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

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith.

Because the Complainant's BAYER mark is well-known, it is implausible to believe that the Respondent was not aware of that mark when it registered the disputed domain name. In the circumstances of this case, such a showing is sufficient to establish bad faith registration of the disputed domain name. While the Complainant claims that the disputed domain name may be use in connection with a series of frauds being perpetrated under similarly-constructed domain names targeting the Complainant's BAYER trademark, no actual evidence of such fraud has been presented in relation to the disputed domain name. However, while the disputed domain name is not actively being used, such non-use does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Given the notoriety of the Complainant's trademarks, its incorporation in the disputed domain name, the Respondent's failure to participate in this proceeding, and the Respondent's apparent provision of false contact information in light of the courier's inability to deliver the Center's written communication, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith.

Accordingly, the Panel finds that the Complainant has established this third element under 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 name <forbayer-global.com> be transferred to the Complainant.

/Evan D. Brown/

**Evan D. Brown**

Sole Panelist

Date: March 17, 2023