

ADMINISTRATIVE PANEL DECISION

Accord Healthcare Limited v. Correll Anderson
Case No. D2023-3102

1. The Parties

The Complainant is Accord Healthcare Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Correll Anderson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <accordhealthcare.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2023. On July 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 20, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 August 16, 2023.

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 August 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 8, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on September 14, 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 company within the Accord Healthcare Group, which trades as both “Accord” and “Accord Healthcare”. The Complainant commenced trading in Europe in 2008. It is a fast-growing pharmaceutical and biosimilars company in Europe with a large market footprint within European generic pharmaceutical companies, operating in over 45 countries and selling medicines in over 80 countries around the world. In the financial year 2021-2022 the Complainant’s revenue exceeded GBP 225 million. The Complainant’s ACCORD brand has received a number of awards and accolades.

The Complainant owns registered trademark rights in respect of the ACCORD HEALTHCARE LTD. trademark in various jurisdictions, including, for instance, International Registration No. 1089828, registered on August 23, 2011.

The Complainant has also online presence at its website “www.accord-healthcare.com”.

The disputed domain name was registered May 9, 2023, and resolves to a parked webpage, which was used for fraudulent purposes.

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 dominant and distinctive element of the disputed domain name is identical to the Complainant’s trademark (or has differences that would go unnoticed by Internet users) and is confusingly similar to the Complainant’s trademark ACCORD brand and Registered Marks. The disputed domain name wholly incorporates the Complainant’s trademark but uses the name with an additional “I” in “healthcare”. Phonetically, the inclusion of the additional “I” does not alter the verbal identity between the marks.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent registered the disputed domain name knowing that it is likely to attract Internet users who are searching for the Complainant. Additionally, the Respondent registered the disputed domain name knowing that it is likely that consumers in receipt of emails such as “name@accordhealthcare.com” would be misled into thinking that the Respondent is, or is connected to, the Complainant, which already happened. The Respondent’s registration of the disputed domain name despite the Complainant’s widespread reputation in its trademark demonstrates that the Respondent did not legitimately register the disputed domain name.

The domain name was registered and is being used in bad faith. Given the widespread use and reputation of the Complainant’s trademark, the Respondent must have been aware that in registering the disputed domain name it was misappropriating the valuable intellectual property of the Complainant. The Complainant became aware of the disputed domain name as various emails have been sent to either employees of the company, or to prospective employees posing to be the HR department of the Complainant. These emails were sent from an email address using “...@accordhealthcare.com” confirming that the Respondent is performing fake interviews or job offers and then asking for personal information from individuals. These emails are signed off from the Complainant ex-employee, who did have the role as the Senior Vice President of the Human Rights Department for the Europe, Middle East, and North Africa region.

The Complainant does not believe the ex-employee to be using the disputed domain name but in any event, she is no longer an employee and is not authorized by the Complainant to do so.

B. Respondent

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

6. Discussion and Findings

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 the ACCORD HEALTHCARE LTD trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the ACCORD HEALTHCARE LTD trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name confusingly similar to the ACCORD HEALTHCARE LTD mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the disputed domain name consists of intentional misspelling of the Complainant's trademark, thus it is confusingly similar to the Complainant's trademark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name such as those enumerated in the Policy or otherwise.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests. [WIPO Overview 3.0](#), section 2.3.

The Respondent has intentionally and fraudulently attempted to pass itself off as the Complainant and/or an affiliate of the Complainant by using an email address associated with the disputed domain name in an effort

to obtain personal data from Internet users. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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 used an email address associated with the disputed domain name to impersonate the Complainant and also used the name of the Complainant's ex-employee, which confirms the Respondent was well aware of the Complainant and its trademark rights when registering the disputed domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.2.2.

According to section 3.4 of the [WIPO Overview 3.0](#), panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. The Panel finds that in the present case use of the disputed domain name to send deceptive emails constitutes bad faith.

Based on the available record, 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 name <accordhealthcare.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: September 28, 2023