

ADMINISTRATIVE PANEL DECISION

Halliburton Energy Services, Inc. v. Lawson Ben
Case No. D2022-2781

1. The Parties

The Complainant is Halliburton Energy Services, Inc., United States of America (“USA” or “United States”), represented by Polsinelli PC Law firm, USA.

The Respondent is Lawson Ben, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <haliburton.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2022. The Respondent did not submit any response by the due date or thereafter. Accordingly, the Center notified the Respondent’s default on August 23, 2022.

The Center appointed Archibald Findlay SC as the sole panelist in this matter on August 26, 2022. 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 in accordance with the Rules.

4. Factual Background

The following facts and circumstances are to be found in the Complaint and its Annexures and, in the absence of challenge, can be accepted as background.

The Complainant is a multinational corporation founded in 1919 and is one of the world's largest providers of products and services to the global energy industry. Its annual revenues in 2019, 2020, and 2021 were USD 22.4 billion, USD 14.4 billion, and USD 15.2 billion, respectively.

Currently operating in approximately 70 countries with more than 40,000 employees, the Complainant serves the upstream oil and gas industry in all aspects of the lifecycle reservoir. Amongst the leaders in the global energy field, the Complainant has expended a great deal of effort and expense to protect its valuable intellectual property rights and has continually used the HALLIBURTON mark in commerce for more than 80 years.

The Complainant registered the trademark HALLIBURTON in the United States on June 4, 2002 under the Registration No. 2,575,819, and puts up details of more than 370 trademark registrations in 60 countries worldwide for the HALLIBURTON mark and HALLIBURTON-formative marks.

The Complainant's common law trademark and service mark rights from its prior and extensive use of the HALLIBURTON trademark plainly satisfies the Policy. Further, the Complainant's multiple registrations of national and international trademarks also satisfy the Policy (*Horten Advokatpartnerselskab v. Domain ID Shield Service CO., Limited / Krutikov Valeriy Nikolaevich*, WIPO Case No. [D2016-0205](#)).

The disputed domain name was registered on June 17, 2022, and does not resolve to an active website. However, it has been used for sending fraudulent emails to solicit payments from the Complainant's clients.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The HALLIBURTON mark has become one of the most recognized and respected brands in the industry, enjoys widespread recognition in the trade, and is a source of significant goodwill for the Complainant. The Complainant has also registered domain names incorporating its HALLIBURTON mark, including its official website at "www.halliburton.com".

The Respondent is neither affiliated with the Complainant nor licensed to use the Complainant's HALLIBURTON mark, nor licensed to register or use domain names, nor associated email accounts, incorporating the HALLIBURTON mark. Without the Complainant's knowledge or consent, the Respondent registered the disputed domain name on June 17, 2022.

The disputed domain name registered by the Respondent consists of the Complainant's entire distinctive HALLIBURTON mark, with the removal of one internal letter and the addition of another, and was clearly intended to be confusingly similar to the HALLIBURTON mark.

The Respondent has used the disputed domain name to target vendors and/or employees of the Complainant in a fraudulent email and phishing scheme in which the Respondent attempts to solicit payment to the Respondent by impersonating an employee of the Complainant.

In particular, the Respondent attempted to defraud the Complainant on June 20, 2022, by using the disputed domain name, less than a week after registration, in an email address "[...][@haliburton.com](#)", to impersonate one of the Complainant's employees, a Principal CFS Leader and "[...][@haliburton.com](#)" to

impersonate an Account Analyst. The Respondent also used the disputed domain name in the email addresses “[...]@haliburttton.com” and “[...]@haliburton.com” to impersonate other employees of the Complainant. The fraudulent email also mentioned redirecting payment to a different bank account while impersonating an employee of the Complainant. Fortunately, the Respondent’s attempt to perpetuate fraud on the Complainant’s client was detected.

The disputed domain name is confusingly similar to the Complainant’s distinctive and well-known HALLIBURTON mark within the meaning of paragraph 4(a)(i) of the Policy, having removed just one letter and added just one letter to the middle of the HALLIBURTON mark. As set forth above, the Complainant’s rights in the HALLIBURTON mark are clearly established through registration and use, both in the USA and in numerous other countries around the world. At a minimum, the Complainant’s mark is entitled to a presumption of validity by virtue of its registration with the United States Patent and Trademark Office. (*EAuto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. [D2000-0047](#)).

In considering the question of identity or confusing similarity, the first element of the Policy is essentially a standing requirement. The threshold inquiry under the first element of the Policy is largely framed in terms of whether the trademark and the disputed domain name, when directly compared, are identical or confusingly similar. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7 (and cases cited therein).

The disputed domain name is confusingly similar to the Complainant’s well-known HALLIBURTON mark and contains a slight, but intentional, variation of the Complainant’s well-known HALLIBURTON mark, the removal of a “l” and the addition of a “t” in the middle of the Complainant’s distinctive mark.

It follows, so the Complainant contends, that the disputed domain name is clearly confusingly similar to the Complainant’s registered trademark HALLIBURTON.

It is highly unlikely that the Respondent would not have been aware of the Complainant’s legal rights in the disputed domain name containing the word “halliburton” at the time of registration.

The Respondent is also not using the disputed domain name for a *bona fide* purpose but has intentionally chosen the disputed domain name based on the registered trademark to fraudulent ends.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. By the failure to respond, the Respondent is in default in terms of paragraphs 5(f) and 14 of the Rules and paragraph 8(c) of the Supplemental Rules, with the result that the Panel must now deal with the matter on the Complaint.

6. Discussion and Findings

A. Substantive Elements of the Policy

Paragraph 15(a) of the Rules requires that:

“A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) That the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights.
- (ii) That the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

Paragraph 4(b) of the Policy sets out four illustrative circumstances or acts which would, for the purposes of paragraph 4(a)(iii) above, be evidence of the registration and use of a domain name in bad faith. These are non-exclusive.

Similarly, paragraph 4(c) of the Policy sets out three illustrative circumstances which would demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy.

B. Effect of Default

Notwithstanding the fact that a respondent may be in default, a complainant bears the burden of proof in respect of each of the three main elements in terms of paragraph 4(a) of the Policy. Such default does not, *per se*, entitle a complainant to a finding in its favor by reason thereof, as failure by the complainant to discharge the burden of proof will still result in the complaint being denied (*M. Coentim Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). It follows that such default does not, of itself, constitute an acceptance or an admission of any of the averments or contentions put forward, or of the supporting evidence put up (*Standard Innovation Corporation v. Shopintimates USA*, WIPO Case No. [D2011-0049](#)). The Panel is nevertheless not bound to accept all that has been put up by the Complainant but must evaluate it as it stands (*Brooke Bollea, a.k.a Brooke Hogan v. Robert McGowan*, WIPO Case No. [D2004-0383](#); *San Lameer (Pty) Ltd and Sanlam Ltd v. Atlantic Internet Services (Pty) Ltd*, WIPO Case No. [D2010-0551](#)).

However, paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, a panel shall draw such inference as it considers appropriate from the failure of a party to comply with a requirement of the Rules (*Allianz, Compañía de Seguros y Reaseguros S.A. v. John Michael*, WIPO Case No. [D2009-0942](#)).

In the present instance, the Panel finds that there are no exceptional circumstances for the failure of the Respondent to submit a Response, particularly in the light of the fact that the Center wrote to the Respondent, advising of procedural matters and time limits.

From this, the Panel considers that it may accept that the Respondent does not deny the facts asserted and contentions made by the Complainant (*Reuters Limited v. Global Net 2000, Inc*, WIPO Case No. [D2000-0441](#); *LCIA (London Court of International Arbitration) v. Wellsbuck Corporation*, WIPO Case No. [D2005-0084](#); *Ross-Simons, Inc. v. Domain.Contact*, WIPO Case No. [D2003-0994](#); *Standard Innovation Corporation v. Shop Intimates USA, supra*; *VKR Holding A/s v. Above.com Domain Privacy/Host Master, Transure Enterprise Ltd.*, WIPO Case No. [D2012-0040](#); *Knorr-Bremse AG. v. WhoisGuard Protected, WhoisGuard, Inc. / Mosco Binzu*, WIPO Case No. [D2019-0616](#)).

Thus, in the view of the Panel, it may accept asserted facts that are not unreasonable, with the consequence that the Respondent will be subjected to inferences that flow naturally from the information provided by the Complainant (*Reuters Limited v. Global Net 2000, Inc, Supra*; *RX America, LLC. v. Matthew Smith*, WIPO Case No. [D2005-0540](#); *Allianz, Compañía de Seguros y Reaseguros S.A. v. John Michael, supra*; *Standard Innovation Corporation v. Shopintimates USA, supra*; *VKR Holding A/s v. Above.com Domain Privacy/Host Master, Transure Enterprise Ltd., supra*; *Groupe Auchan v. Anirban Mitra*, WIPO Case No. [D2012-0412](#); *Barclays Bank PLC v. Miami Investment Brokers Inc*, WIPO Case No. [D2012-1213](#)).

C. Identical or Confusingly Similar

The Complainant put up an extensive list of its registered HALLIBURTON marks which it owns in many countries.

The fact that the word mark HALLIBURTON has been incorporated almost entirely into the disputed domain name is sufficient to establish that it is confusingly similar to the Complainant's registered trademark (*Quixtar Investments, Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#); *Universal City Studios, Inc. v. David Burns and Adam-12 Dot Com*, WIPO Case No. [D2001-0784](#); *Lilly ICOS LLC v. John Hopking / Neo net Ltd.*, WIPO Case No. [D2005-0694](#); *SOCIÉTÉ DES PRODUITS NESTLÉ SA v. Mustafa Yakin / Moniker Privacy Services*, WIPO Case No. [D2008-0016](#)).

The removal of the "l" and the addition of the "t" does not dispel the confusing similarity between the disputed domain name and the Complainant's mark (*TPI Holdings, Inc. v. LaPorte Holdings*, WIPO Case No. [D2006-0235](#); *Allstate Insurance Company v. Rakshita Mercantile Private Limited*, WIPO Case No. [D2011-0280](#)).

In these circumstances, the Panel has no difficulty in concluding that the Complainant has established the first element in terms of paragraph 4(a)(i) of the Policy.

D. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate his rights to or legitimate interests in the disputed domain name for the purposes of Paragraph 4(a)(ii) of the Policy, namely:

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the 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 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 domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although paragraph 4(a)(ii) requires the Complainant to prove that the Respondent has no rights to or legitimate interests in the disputed domain name, once the Complainant establishes a *prima facie* case that the Respondent has no rights or legitimate interests in the domain name, the burden of production of evidence on this factor shifts to the Respondent to rebut the showing, despite the overall burden of proof remaining upon the Complainant to prove each of the three elements of paragraph 4(a) of the Policy. (*Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Universal City Studios, Inc. v. David Burns and Adam-12 Dot Co, supra*).

Having defaulted, the Respondent has placed himself in a position that he has not produced any evidence to rebut such *prima facie* case as may have been established by the Complainant, and the enquiry must therefore focus upon what is evidenced by the Complainant in order to determine whether or not it has been so established.

The Complainant contends that it is the sole proprietor of the trademark HALLIBURTON and that the Respondent has not been given any permission to register or use any domain name incorporating the trademark of the Complainant. It follows, therefore, that the Respondent has no right to the use of that mark as part of the disputed domain name and that any unauthorized use for commercial purposes would violate the wide-reaching trademark rights enjoyed by the Complainant. (*Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#); *Caesars World, Inc. and Park Place Entertainment Corporation v. Japan Nippon*, WIPO Case No. [D2003-0615](#); *AT&T Corp. v. Roman Abreu d/b/a Smartalk Wireless*, WIPO Case No. [D2002-0605](#); *America Online, Inc. v. Xianfeng Fu*, WIPO Case No. [D2000-1374](#); *Sybase, Inc. v. Analytical Systems*, WIPO Case No. [D2004-0360](#); *San Lameer (Pty) Ltd and Sanlam Ltd v. Atlantic Internet Services (Pty) Ltd, supra*).

Apart from there being no authorization on the part of the Complainant, there is no relationship or association between the Complainant and the Respondent, whether by license or otherwise, which also militates against the Respondent having rights or legitimate interests in or other entitlement which might fall within that purview (*Sybase, Inc. v. Analytical Systems, supra*).

The Complainant has provided evidence to show that the Respondent has been using the disputed domain name for sending fraudulent emails to solicit payments from the Complainant's customers.

The Complainant, having made out a *prima facie* case, the burden of production has shifted to the Respondent which, by reason of silence due to default, has not come forward with any counter ancillary evidence (*Julian Barnes v. Old Barn Studios Limited*, WIPO Case No. [D2001-0121](#); *The American Automobile Association, Inc. v. aaaaautoinsurance.com Privacy--Protect.org, aaa-netaccess.com Privacy--Protect.org, aaanetaccess.com Privacy--Protect.org, Isaac Goldstein*, WIPO Case No. [D2011-2069](#)).

Moreover, there is no evidence that the Respondent has been commonly known by that disputed domain name or otherwise has rights in the disputed domain name (*Abbott Laboratories v. Li Jian Fu, Li Jian Fu*, WIPO Case No. [D2016-0501](#)).

In view of the facts and circumstances put up on this ground and which are unchallenged, the Panel is of the view that the Complainant should therefore succeed on this ground as well.

The Panel is therefore satisfied that, in the circumstances, the Complainant has established the second element of the Policy.

E. Registration and Use in Bad Faith

Paragraph 4(b) of the Policy provides that for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

It is clear that the Respondent is using the disputed domain name intentionally to attempt to divert payments to him from the Complainant's customers by creating a likelihood of confusion with the Complainant's trademark for commercial gain.

The implication arising from the disputed domain name which is a misspelling of the Complainant's trademark would lead a would-be customer into mistakenly believing that it is associated with the Complainant, and entitled to be paid money which have been earned by the Complainant. That would, by application of paragraph 4(b)(iv) of the Policy, constitute bad faith registration and use. (*Media24 Limited v.*

Llewellyn Du Randt, WIPO Case No. [D2009-0699](#); *San Lameer (Pty) Ltd and Sanlam Ltd v. Atlantic Internet Services (Pty) Ltd*, *supra*).

The selection of a disputed domain name that is confusingly similar to the Complainant's prior registered trademark, particularly in the absence of any explanation, leads to the conclusion, in the view of the Panel, that the Respondent must have known of the reputation of the Complainant in the market and therefore he selected the disputed domain name in circumstances where he was very well aware of the Complainant's reputation and intended to benefit therefrom (*Deutsche Post AG v. MailMij LLC*, WIPO Case No. [D2003-0128](#); *Barclays Bank PLC v. Miami Investment Brokers Inc*, *supra*), particularly where it is so widely known globally. Moreover, this has been reinforced by the fact that the Respondent has been using the disputed domain name for sending fraudulent emails to the customers of the Complainant in order to solicit payments by creating a likelihood of confusion with the Complainant in the mind of consumers.

The Panel is therefore satisfied that the Complainant has established the third element under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraph 4(a) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <haliburton.com> be transferred to the Complainant.

/Archibald Findlay/

Archibald Findlay

Sole Panelist

Date: September 2, 2022