

ADMINISTRATIVE PANEL DECISION

Walgreen Co. v. Collins Maguire
Case No. D2023-0685

1. The Parties

The Complainant is Walgreen Co., United States of America (“United States”), represented by Winterfeldt IP Group PLLC, United States.

The Respondent is Collins Maguire, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <walgreenscun.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 February 14, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 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 February 21, 2023.

The Center verified that the Complaint [together with the amendment to the Complaint/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 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2023. The Respondent sent an email communication to the Center on February 23, 2023; on the same date the Center wrote to the Parties concerning possible suspension and settlement.

The Center appointed Kaya Köklü as the sole panelist in this matter on September 1, 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 United States company and operates a widely known retail pharmacy chain in the United States with about 9,000 retail stores and more than 240,000 employees (Annex 4 to the Complaint). Its roots date back to the year 1901.

The Complainant is the registered owner of the WALGREENS trademark, which is registered in numerous jurisdictions worldwide. Among others, the Complainant owns the United States Trademark Registrations no. 1057249 for WALGREENS, registered on January 25, 1977 and no. 2077524 for WALGREENS, registered on July 8, 1997, both of them covering protection *i.a.*, for retail drug store and pharmacy services (Annex 7 to the Complaint).

Since 1995, the Complainant also owns and operates the domain name <walgreens.com> as its primary website (Annex 5 to the Complaint).

The disputed domain name was created on September 14, 2022.

The Respondent is reportedly located in the United Kingdom.

The Screenshots, as provided by the Complainant, show that the disputed domain name resolves to a website pretending to be a “Wal Greens Credit Union”. The associated website mainly uses a red and white color scheme that mimics the Complainant’s red and white WALGREENS logo as used on the Complainant’s official website (Annex 5 and 7 to the Complaint). The Respondent’s website includes a button “online banking” which leads to another website inviting Internet users to register or login to an online banking portal by entering an account number and password (Annex 7 to the Complaint).

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.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. In its email communication to the Center on February 2 and 17, 2023, the Respondent merely asked for additional information on this case. In its email communication of February 23, 2023, the Respondent stated: “You want the domain name? I could let it go but not for free.”

6. Discussion and Findings

According to paragraphs 14 and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no substantive response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not substantively replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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. See [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the WALGREENS mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms or letters, here "cun", may bear on assessment of the second and third elements, the Panel finds the addition of such letters does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8.

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. Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark in its entirety, indicates an awareness of the Complainant and its trademark and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests.

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.

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.

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. See [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its widely-known WALGREENS trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name to target and mislead third parties. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain names in bad faith, the Panel is convinced that the disputed domain name is used by the Respondent to mislead third parties in a false belief that the associated website as well as the redirected website originate from or are at least authorized by the Complainant, probably for fraudulent purposes. Inviting Internet users to enter personal data to register an online banking account, probably for phishing or other illegal purposes, is in view of the Panel *per se* illegitimate activity that cannot confer rights or legitimate interests on a respondent.

Panels have held that the use of a domain name for such illegal activity constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel concludes that 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 <walgreenscun.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: September 15, 2023