

## **ADMINISTRATIVE PANEL DECISION**

### **Walgreen Co. v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-3695**

#### **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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <walgreensempleyos.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2023. On September 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 7, 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 September 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 13, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant operates a large retail pharmacy chain with approximately 9,000 retail stores across the United States, including in 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The Complainant employs more than 240,000 people, including over 85,000 healthcare service providers such as pharmacists, pharmacy technicians, nurse practitioners and other health-related professionals. The Complainant also provides pharmacy and healthcare-related services through its <walgreens.com> domain name registered in 1995.

The Complainant owns numerous trademark registrations for the WALGREENS mark and other WALGREENS-formative marks, such as US trademark number 1057249 (registered on January 25, 1977) and International registration number 1100522 (registered on August 19, 2011). The Complainant has promoted its trademarks globally.

The Domain Name is registered on October 24, 2022. At the time of the Complaint, the Domain Name resolved to rotating website content, including webpages offering consumer goods, webpages with fake virus warnings and pop-up malware, gambling sites, and webpages blocked for malicious content. At the time of drafting the Decision, the Domain Name resolved to webpage that informs that the webpage is blocked as malware according to security policy.

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

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

The Complainant provides evidence of trademark registrations and argues that the difference between the Complainant's trademark and the Domain Name is the addition of the term "employess", a typo of "employees". The addition is insufficient to escape a finding of confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized, licensed, or permitted to register or use a domain name incorporating the Complainant's trademark. The Respondent's use of the Domain Name is not *bona fide* commercial or fair or legitimate noncommercial use.

The Complainant argues that the Respondent has registered and is using the Domain Name in bad faith. When registering the Domain Name, the Respondent cannot have been unaware of the Complainant and its brand. The Respondent has offered the Domain Name for sale from a parked webpage for minimum USD 899. The Respondent's use of the Domain Name, both the redirection to rotating third-party websites and potential distribution of malware, is also clear evidence of bad faith. Finally, the Respondent has engaged in a bad faith pattern of preventing trademark owners from reflecting their marks in corresponding domain names, having registered and used numerous domain names in similar fashion.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark WALGREENS. The Domain Name differs from the trademark in the addition of "employess". The addition (itself a typo) does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD; see [WIPO Overview 3.0](#), section 1.11.1.

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. See [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 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 Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Respondent's use of the Domain Name is evidence of bad faith, see below.

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.

It is clear that the Respondent is intentionally creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement. The Respondent has offered the Domain Name for sale for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name. The Domain Name has been used in bad faith, and the Respondent has engaged in a pattern of preventing trademark owners from reflecting their marks in corresponding domain names.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

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 the Domain Name <walgreensemployess.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: October 19, 2023