

ADMINISTRATIVE PANEL DECISION

Walgreen Co. v. Ataev Murad
Case No. D2023-3754

1. The Parties

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

The Respondent is Ataev Murad, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <walgreens-ads.com> (the “Domain Name”) 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 September 1, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 9, 2023, 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 September 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2023. On September 12, 2023, the Center received an email communication from the Respondent. The Respondent did not submit a formal response to the Complaint. On October 3, 2023, the Center notified the Parties of the Commencement of the Panel Appointment Process.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 4, 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 US 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 trademark registration number 1100522 (registered on August 19, 2011). The Complainant has promoted its trademarks globally.

The Domain Name was registered on October 4, 2022. At the time of the Complaint, and at the time of Drafting the Decision, the Domain Name resolved to an English-language website featuring the Complainant's weekly advertisement fliers, including its logo and coupons.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is near identical to the Complainant's prior trademarks. The Domain Name reproduces the Complainant's trademark with the addition of a hyphen and the term "ads".

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 with actual knowledge of the Complainant's rights, based on the use of the Domain Name and the fact that it is registered long after the Complainant had registered its trademarks. The Complainant further asserts that the Domain Name has been used to disrupt the Complainant's business and attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

B. Respondent

Although the Respondent sent a brief email communication to the Center on September 12, 2023, Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Procedural issue

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the Complaint was delivered to the Respondent's email address provided by the Registrar and that the Respondent sent an email communication to the Center on September 12, 2023. The Respondent has not opposed to the continuation of the proceedings. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned registrar, which is in the USA.

Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the Domain Name in bad faith to target the Complainant and mislead consumers.

6. 2 Substantial Issues

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 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 a hyphen and the term "ads". The additions do 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 generic Top-Level Domain ("gTLD") as it is viewed as a standard requirement for the registration of domain names; 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 rather 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.

Based on the composition and use of the Domain Name, it is clear that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. Based on the same use, it is evident that the Respondent is intentionally attempting to create a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

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 <walgreens-ads.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 11, 2023