

ADMINISTRATIVE PANEL DECISION

Haleon UK IP Limited v. Selma Adams
Case No. D2024-1225

1. The Parties

The Complainant is Haleon UK IP Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom (hereafter “UK”).

The Respondent is Selma Adams, United States of America.

2. The Domain Name and Registrar

The disputed domain name <haleeon.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2024. On March 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 21, 2024, 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, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 25, 2024, 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 March 25, 2024.

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 March 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on April 26, 2024. 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, Haleon UK IP Limited, formerly GlaxoSmithKline Consumer Healthcare (UK) IP Limited, is a British multinational consumer healthcare company established in July 2022 as a corporate spin-off from GSK plc.

The Complainant is the owner of several HALEON trademarks, including:

- HALEON, international word mark registered under No. 1674572 on November 29, 2021, in classes 3, 5, 9, 10, 21, 29, 30, 32, 35, 36, 41, 42 and 44;
- HALEON, Mexican word mark registered under No. 2355199 on February 10, 2022, class 36;
- HALEON, UK word mark registered under No. UK00003726732 on March 11, 2022, classes 3, 5, 9, 10, 21, 29, 30, 32, 35, 36, 41, 42 and 44.

The Complainant operates the domain name <haleon.com>, which resolves to the Complainant's official website.

The Disputed Domain Name was registered on July 30, 2023. According to the Complainant's evidence, the Disputed Domain Name used to resolve to a website appearing to display the Complainant's logo and to copy the look and feel of the Complainant's official website. The Panel observes that the Disputed Domain Name currently resolves to an inactive web page.

The Complainant claims to have sent a cease-and-desist letter to the Respondent via email on December 5, 2023, without receiving any response.

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 Disputed Domain Name is confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant contends that:

- the Respondent does not have any HALEON trademark rights. There is also no evidence that the Respondent retains unregistered trademark rights to the term HALEON. Neither has the Respondent received any license from the Complainant to use domain names featuring the HALEON trademark;
- the Respondent has not used, nor prepared to use, the Disputed Domain Name in connection with a bona fide offering of goods or services. The Disputed Domain Name does not currently resolve to an active website or webpage and prior to the Complaint, the Disputed Domain Name was used to pass off as the Complainant, advertising the Complainant's products and services;

- to the best of its knowledge, the Respondent is not commonly known by the term HALEON;
- its HALEON trademark is a distinctive term used to represent the Complainant's goods and services. There is no generic or common usage for the term HALEON. Nor has any evidence come to light since the Disputed Domain Name's registration that the Respondent has intended to use the Disputed Domain Name in a way other than to target the Complainant.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the Complainant's HALEON mark received large-scale media coverage and the simplest degree of due diligence would have otherwise made the Respondent aware of the Complainant's rights in the HALEON mark. Moreover, less than one month after the Disputed Domain Name's registration, the Respondent displayed active content on the linked website, impersonating the Complainant's offerings;
- the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's HALEON mark. The Disputed Domain Name is a typo of the HALEON mark that can easily be mistyped by Internet users. This practice is commonly referred to as typosquatting. Moreover, the previous use of the Disputed Domain Name by the Respondent did not attempt to disclaim the lack of association with the Complainant through the Domain Name's site. On the contrary, the use of the Disputed Domain Name and the use of the Complainant's mark and logo on the main page perpetuated the misleading and false impression that the Respondent is affiliated with or otherwise endorsed by the Complainant, when this is not the case;
- the Respondent previously set up MX records for the Disputed Domain Name at the time when the content was live, impersonating the Complainant's offerings. The activation of MX records, carries a high risk of being used for fraudulent activity;
- it has been established by panels that "passive use" does not preclude a finding of bad faith use;
- a cease-and-desist letter was sent to the Respondent via email on December, 5, 2023. Previous panel decisions have stated that a lack of reply to a cease-and-desist letter prior to commencing the proceedings infers bad faith behaviour;
- the Respondent was given the opportunity to provide evidence of any actual or contemplated good faith use but chose not to respond. This is further evidence of bad faith.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel observes that the Disputed Domain Name incorporates the Complainant's HALEON trademark, adding the letter "e" between the letters "e" and "o" of HALEON. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Examples of such typos include the addition or interspersion of other terms or numbers. The Panel finds that the interspersion of one letter within the Complainant's mark can be considered as "typosquatting" and does not prevent the Complainant's mark to be recognizable within the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.9.

It is well established that generic Top-Level-Domains ("gTLDs"), here ".com", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights. [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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "Selma Adams". The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. In this case, the Panel finds that the Disputed Domain Name can be considered as virtually identical to the Complainant's HALEON trademark as it incorporates the Complainant's HALEON trademark in its entirety adding the letter "e". The Panel finds that subtle misspellings of a complainant's mark in a domain name can impersonate the complainant, as there is a risk that Internet users will not notice the difference between such misspelling and the complainant's mark. See *Banque et Caisse d'Epargne de l'Etat, Luxembourg, v. Domain Admin, Whoisprotection.cc / hans larsson*, WIPO Case No. [D2022-1505](#).

The Panel also observes that, except for the misspelling of the Complainant's HALEON trademark, the Disputed Domain Name is identical to the domain name <haleon.com> resolving to a website appearing to display the Complainant's logo and to copy the look and feel of the Complainant's official website. Therefore, the Panel finds that the Disputed Domain Name carries a risk of confusion and cannot constitute fair use.

Beyond looking at the domain name, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

In this case, the Panel is of the opinion that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. According to evidence provided by the Complainant, the Disputed Domain Name appeared to resolve to a webpage displaying the Complainant's mark and logo and copying the overall look and feel of the Complainant's official website. The Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the Disputed Domain Name. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g. 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.

The Panel observes that the Disputed Domain Name currently resolves to an inactive webpage. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use either.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

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.

As established above, the Complainant's has shown that the Disputed Domain Name resolved to a website displaying the Complainant's mark and logo and copying the overall look and feel of the Complainant's official website. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.4.

Other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel holds that the misspelling of the Complainant's mark in the Disputed Domain Name is a form of typosquatting which is further evidence of bad faith. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#); *WestJet Airlines Ltd. v. Taranga Services Pty Ltd*, WIPO Case No. [D2010-1814](#); and *Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager*, WIPO Case No. [D2011-1951](#).

In the present case, the Panel finds that the Respondent must have been aware of the Complainant and its trademark rights when it registered the Disputed Domain Name as:

- the Complainant's trademarks predate the registration of the Disputed Domain Name;
- the Disputed Domain Name incorporates an obvious misspelling of the Complainant's distinctive trademark;
- the Disputed Domain Name appeared to resolve to a website displaying both the Complainant's word mark and logo, and even copying the overall look and feel of the Complainant's official website.

Given the totality of the circumstances discussed above, the current state of the Disputed Domain Name referring to an inactive web page does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as additional indication of the Respondent's bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

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 <haleeon.com> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: May 10, 2024