

ADMINISTRATIVE PANEL DECISION

Humana Inc. v. Dns Admin, Domain Privacy LTD
Case No. D2024-3809

1. The Parties

The Complainant is Humana Inc., United States of America (“United States”), represented by Wood, Herron & Evans, LLP, United States.

The Respondent is Dns Admin, Domain Privacy LTD, United States, represented by Greenberg & Lieberman, United States.

2. The Domain Name and Registrar

The disputed domain name <humanan.com> (the “Disputed Domain Name”) is registered with Sea Wasp, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 19, 2024. On September 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 amendment to the Complaint on September 24, 2024.

The Center verified that the Complaint together with the amendment to 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 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2024. The Respondent requested and was granted a four-day extension, and the new Response due date was October 21, 2024. The Response was filed with the Center on October 20, 2024. The Respondent elected a three-member Panel.

The Center appointed Lynda M. Braun, David E. Sorkin, and Frederick M. Abbott as panelists in this matter on November 5, 2024. The Panel finds that it was properly constituted. Each member of 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, a major health care and health insurance provider, is a publicly-traded Delaware corporation headquartered in Louisville, Kentucky, United States, and listed on the New York Stock Exchange. As a Fortune 500 company with approximately 67,000 employees, the Complainant's annual revenue in 2023 exceeded USD 106 billion. In 2023, the Complainant spent roughly USD 300 million advertising and promoting the HUMANA brand, which has great value and represents the goodwill of the company.

The Complainant owns numerous trademarks, most of which are incontestable, through the United States Patent and Trademark Office ("USPTO") in connection with health insurance and managed healthcare services, and related goods and services, including, but not limited to: HUMANA, United States Trademark Registration No. 1,575,512, registered on January 2, 1990, with a first use in commerce of January, 1974, in international classes 36 and 42; HUMANA, United States Trademark Registration No. 1,576,782, registered on January 9, 1990, in international classes 36 and 42; and HUMANA GOLD PLUS, United States Trademark Registration No. 2,180,789, registered on August 11, 1998, in international class 42 (hereinafter collectively referred to as the "HUMANA Mark").

The Complainant owns the <humana.com> domain name, which resolves to its official website at "www.humana.com", and which includes information about its policies and insurance providers, among other services provided by the Complainant. The Complainant also owns more than 1,200 other domain names including and/or incorporating the HUMANA Mark.

The Disputed Domain Name was registered on March 30, 2004. The Respondent says he acquired it on April 12, 2007. According to the Complainant's counsel, a first attempt to access the website associated with the Disputed Domain Name resulted in four to five redirects before the screen arrived at a site that appeared to be associated with a pharmaceutical company; other attempts also had multiple redirects before arriving at unrelated sites. As of the writing of this Decision, the Disputed Domain Name resolves to an apparent malware site, which invites the user to click on a link to purportedly prevent the user's data from being compromised. (The site could harbor a phishing scheme.)

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 the Complainant's trademark because the Disputed Domain Name contains the HUMANA Mark in its entirety, save for the addition of the letter "n" at the end of the Disputed Domain Name, a classic example of typosquatting, followed by the generic Top-Level Domain ("gTLD") ".com", and thus does not prevent a finding of confusing similarity;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, among other things, the Complainant has not made demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services; and the Respondent was not commonly known by the HUMANA Mark or any similar name; and
- the Disputed Domain Name was registered and used in bad faith because, among other things, the Respondent had actual knowledge of the Complainant and the HUMANA Mark, the term "humana" is

not a dictionary term but rather a coined term exclusively associated with the Complainant, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the HUMANA Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, and the Disputed Domain Name was used only to target the Complainant and to divert traffic from the Complainant for the Respondent's commercial gain.

- The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the Disputed Domain Name. Specifically, the Respondent claims that:

- the term "humanan" is a dictionary term that has significance in Latin, Esperanto, Spanish, and Hausa (a northern Nigerian language), and thus, does not support confusing similarity;

- the term "humanan" is used by third party businesses and entities and is not exclusively associated with the Complainant;

- the term "humanan" is a generic word in which the Respondent has a legitimate interest

- The use of a generic word as a domain name constitutes use in connection with a bona fide offering of goods or services;

- the Respondent registered the Disputed Domain Name in good faith as it was not registered to target the Complainant;

- the defense of laches provides a bar to the Complainant's UDRP claim; and

- the Complainant has misused this administrative proceeding to unjustly deprive the Respondent of the Disputed Domain Name, thus resulting in Reverse Domain Name Hijacking.

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that the Disputed Domain Name is confusingly similar to the HUMANA Mark.

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.

It is uncontroverted that the Complainant has established rights in the HUMANA Mark based on its many years of use as well as its registered trademarks for the HUMANA Mark. The consensus view is that “registration of a mark is prima facie evidence of validity”. The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the HUMANA Mark.

The Disputed Domain Name consists of the entirety of the Complainant’s HUMANA Mark, albeit with an additional letter “n” at the end, followed by the generic Top-Level Domain (“gTLD”) “.com”. Here, the Panel finds that the HUMANA Mark is recognizable in the Disputed Domain Name, which supports a finding of confusing similarity. The Respondent’s claim that the Disputed Domain Name consists of a purported dictionary word in several languages is not relevant under the first element.

Further, the addition of a gTLD such as “.com” in a domain name is a technical requirement. As such, it is well established that a gTLD may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, despite the Respondent’s assertions to the contrary, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s HUMANA Mark.

Based on the available record, the Panel finds that 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 a 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 that 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.

In this case, given the facts as set out above, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use its HUMANA Mark, the Complainant does not have any type of business relationship with the Respondent, there is no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, and there is no evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a bona fide offering of goods or services. See Policy, paragraph 4(c).

The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence or persuasive arguments demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise. The Respondent’s use of the Disputed Domain Name to resolve to websites, after multiple redirects, that have no connection to the purported “dictionary term” on which the Respondent relies does not support a claim to rights or legitimate interests.

The Panel further notes that the Respondent’s argument that the mere registration and use of the Disputed Domain Name consisting of a claimed “dictionary term” confers rights on the Respondent is wrong. Merely registering a domain name comprised of a dictionary or generic word does not by itself automatically confer rights or legitimate interests on a respondent. “In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should ... not [be used] to trade off third-party trademark rights.” [WIPO Overview 3.0](#), section 2.10.1. See also *All Star C.V.*,

Converse, Inc. v. Narendra Ghimire, WIPO Case No. [DCO2024-0014](#). Here, the Panel determines that the Respondent did not register or use the Disputed Domain Name to highlight its alleged dictionary meaning, but instead to target the Complainant and trade on the Complainant's goodwill.

In sum, the Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate use of the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by deceiving the Complainant's customers into incorrectly believing that they arrived at the Complainant's website. Such use cannot conceivably constitute a bona fide offering of a service or product within the meaning of paragraph 4(c)(i) of the Policy.

Based on the available record, the Panel finds that 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. The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain Name, but 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.

Based on the circumstances here, the Panel concludes that the Respondent's registration and use of the Disputed Domain Name had been done for the specific purpose of trading on the name and reputation of the Complainant and its HUMANA Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) (“[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain”).

The Panel further finds that the Respondent had actual knowledge of the Complainant and its rights in the HUMANA Mark when registering the Disputed Domain Name, as the Respondent targeted the Complainant and its HUMANA Mark, which is emblematic of bad faith registration and use. The Respondent claims not to have targeted the Complainant in registering the Disputed Domain Name, but admits in a sworn declaration submitted with the Response that “[it did] not recall if [it] was aware of [the Complainant] at the time of registering [the Disputed Domain Name].” The Panel does not find this convincing and thus finds that the Respondent acted in bad faith.

Moreover, the Panel has determined that the Disputed Domain Name contains a misspelling of the HUMANA Mark, which misspelling in the circumstances of this case is evidence of bad faith registration and use. See *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#); see also *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (“It is well-settled that the practice of typosquatting, of itself, is evidence of the bad faith registration of a domain name.”). The Panel finds that the Respondent registered the misspelled Disputed Domain Name to create a likelihood of confusion with the HUMANA Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The Respondent's justification that it registered the Disputed Domain Name as a dictionary or generic term is not persuasive based on the record evidence in this proceeding.

Finally, the Panel concludes that the Respondent's registration of the Disputed Domain Name was a bad faith attempt to disrupt the Complainant's business for commercial gain. See *Newegg Inc. v. Nicole Alex and Alexander Ethan*, WIPO Case No. [D2019-2740](#) (registration of disputed domain names was likely to have been made in an attempt to receive commercial gain from their exploitation). Since the Disputed Domain Name resolved to differing websites with multiple redirects each time it was entered into an address bar, such use demonstrates that the Respondent intentionally attempted

to attract, for commercial gain, Internet users to its website. The Respondent thus used the Disputed Domain Name to lure customers to various websites for commercial gain, whether or not such use was generating revenue. The Panel finds that such conduct establishes the Respondent's bad faith registration and use of the Disputed Domain Name and is precisely the conduct that the Policy aims to proscribe.

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

D. Laches and Reverse Domain Name Hijacking

The Respondent argues that the Complaint should be barred under the doctrine of laches. However, laches is not a bar under the Policy and thus does not apply in this proceeding. See, e.g., *Welcomemat Services, Inc. v. Michael Plummer Jr., MLP Enterprises Inc.*, WIPO Case No. [D2017-0481](#); *Progman Consulting Oy v. Whois Watchdog*, WIPO Case No. [D2010-1393](#) ("It is by now well established that trademark doctrines of laches or estoppel have not been incorporated into the Policy"). The Panel considers it more appropriate to address the issue of delay or laches squarely within the terms of paragraphs 4(a)(ii) and (iii) of the Policy, rather than analyzing them under the equitable doctrine of laches. Accordingly, the Panel concludes that the Respondent's request to dismiss the Complaint on the ground of laches fails.

Moreover, the Panel concludes that Reverse Domain Name Hijacking is wholly inappropriate in this case. The Panel finds that the Respondent, not the Complainant, is the party in this proceeding who has acted in bad faith by attempting, unsuccessfully, to usurp the Complainant's longstanding trademark rights by making a post hoc rationalization for targeting the Complainant and its HUMANA Mark. Thus, the Panel has determined that the doctrine of reverse domain name hijacking additionally fails.

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 <humanan.com> be transferred to the Complainant.

/Lynda M. Braun/
Lynda M. Braun
Presiding Panelist

/David E. Sorkin/
David E. Sorkin
Panelist

/Frederick M. Abbott/
Frederick M. Abbott
Panelist

Date: November 19, 2024