

## **ADMINISTRATIVE PANEL DECISION**

William Grant & Sons Limited v. Noel Esona Balemba, main  
Case No. D2024-4222

### **1. The Parties**

The Complainant is William Grant & Sons Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Noel Esona Balemba, main, United States of America (“United States”).

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

The disputed domain name <glenfiddichwhiskey.com> is registered with Realtime Register B.V. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 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 October 15, 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 October 17, 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 October 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on November 20, 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 was founded in 1887 and is a company incorporated in the United Kingdom and located in Scotland.

It is known for distilling, marketing and distributing Scotch whisky and other spirits under several brands including GLENFIDDICH which has been since decades one of the world's best-selling whiskies in the world and which has received numerous awards, including in the United States.

The Complainant owns a large global portfolio of registered trademarks for the term GLENFIDDICH, including:

- United Kingdom Trademark Registration No. 809941, in international class 33, of August 26, 1960;
- European Union Trademark Registration No. 192575, in international class 33, of October 29, 1998; and
- United States Trademark Registration No. 3980808, in international class 33, of June 21, 2011.

The Complainant is also the owner of many domain names comprising GLENFIDDICH such as <glenfiddich.com> which was registered in August 1995, and which promotes the GLENFIDDICH whisky and brand.

The Respondent is based in the United States. The disputed domain name was registered on August 26, 2024. It resolves to a website that contains an online shop with the menus of "Home", "Shop", "About us" and "Contact" and images of a distillery and the Complainant products. In addition, the Respondent's website prominently displays the Complainant's GLENFIDDICH logotype and uses it as a favicon with the logo of the Complainant. The text of the disputed domain name is in Latin and the Respondent's website is Lorem ipsum – a placeholder text commonly used to demonstrate the visual form of a website without relying on meaningful content.

#### **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.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (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 has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), [WIPO Overview 3.0](#), section 4.3.

### **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 3.0](#), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

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 finds the disputed domain name carries a risk of implied affiliation with the Complainant. The composition of the disputed domain name, comprising the Complainant's trademark in its entirety and the addition of the term "whiskey" related to best-known product of the Complainant creates a risk of Internet user confusion. In addition, the disputed domain name resolves to a website that displays prominently the trademark and logotype of the Complainant.

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.

In the present case, the Panel notes that:

- The Complainant has been in operation since 1887, and the mark GLENFIDDICH is well-known, being registered more than 50 years ago;
- the disputed domain name was registered by the Respondent on August 26, 2024; and
- the disputed domain name resolves to a website that looks like an online shop using the Complainant's trademark without authorization.

Given the circumstances of the case, including the fact that the disputed domain name identically reproduces the Complainant's well-known GLENFIDDICH trademark and resolves to a webpage that displays prominently the trademark and logotype of the Complainant, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant's trademark and business which is widely promoted worldwide through the Complainant's official websites, notably through the website "www.glenfiddich.com".

The Respondent indeed uses without authorization the Complainant's well-known trademark for its own commercial purpose.

The Respondent has not contested the allegations made by the Complainant and his silence in these proceedings is additional evidence of bad faith in these circumstances.

The Panel therefore finds that the disputed domain name was registered and is being used in bad faith.

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 <glenfiddichwhiskey.com> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: December 4, 2024.