Decision for dispute CAC-UDRP-106801

Case number	CAC-UDRP-106801
Time of filing	2024-08-23 11:08:04
Domain names	haleon.co.nl

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Haleon UK IP Limited

Complainant representative

Organization	Safenames Ltd

Respondent

Name	Mr Kane Christopher

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks, inter alia the International registration 1674572 HALEON, applied for and registered on November 29, 2021, being in effect, in, inter alia, classes 3,5,9 extended to numerous countries, among them the European Union, Switzerland.

FACTUAL BACKGROUND

The Complainant, 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. GlaxoSmithKline Consumer Healthcare (UK) IP Limited changed its name to Haleon UK IP Limited on 14th April 2023 remaining the same entity.

The Complainant is one of the world's largest consumer health companies. The Complainant is the holder of nine large-scale multinational power brands (including, for example, PRONAMEL, CENTRUM and ADVIL) and 23 local growth brands. The Complainant's brands span five market categories ('Oral Health', 'Vitamins, Minerals and Supplements (VMS)', 'Pain Relief', 'Respiratory Health' and 'Digestive Health and Other'). The Complainant made a revenue of GBP 10.9 billion in 2022 and its offerings are available to individuals in more than 100 countries, covering both developed and emerging markets. The Complainant has over 24,000 employees.

The launch of the Complainant, under the HALEON name was announced on February 22, 2022.

The Complainant uses the HALEON brand in the string of its main website, www.haleon.com, which is used to inform Internet users of the HALEON offerings.

The disputed domain name was registered on May 26, 2024 and is currently redirected to a parking page.

The Respondent advertises the disputed domain name for sale on the platform sedo.com and has offered it for sale to the Complainant's representatives for EUR 3,500.

PARTIES CONTENTIONS

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant, inter alia, contends that the HALEON term being a coined, distinctive, non-dictionary amalgamation of an old English word 'Hale', meaning 'in good health', and 'Leon', which is associated with the word 'strength'. It is a distinctive, non-dictionary term.

The Complainant also contends that the disputed domain name is confusingly similar to Complainant´s trademark „HALEON". The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant contends that in view of the registered trademarks and the media coverage of the name change as well as the offer to sell the disputed domain name for more than out of pocket expenses. The Respondent has used the disputed domain name in bad faith.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The annexes to the complaint were erroneously not uploaded to the online platform right away, but, however, then later before this decision was rendered. The Respondent never accessed the online platform.

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the domain name; and

(iii) The domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for „HALEON“ in several countries.

The disputed domain name is confusingly similar to the HALEON mark of the Complainant since the addition of the TLD .co.nl does not prevent a finding of a sufficient confusing similarity.

The Panel therefore considers the domain name to be confusingly similar to the trademark „HALEON“, in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights in the disputed domain name since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name “HALEON” or „HALEON.co.nl“ nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services.

The Panel therefore finds that the respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Following the announcement of the name change of the worldwide active Complainant, the registration of an identical domain name is a strong indication that the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of a designation which is identical to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant’s authorization.

Although the disputed domain name is only connected to a parking page, the consensus view amongst panellists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that “the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed and the degree of distinctiveness of the complainant’s mark. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the UDRP.

Furthermore, the Respondent has offered to sell the disputed domain name to the Complainant for 3500 EUR, i.e. for far more than usual out-of-pocket-expenses of the Respondent to register the disputed domain name.

The circumstances of this case indicate that the Respondent acquired the disputed domain name primarily for the purpose of selling the disputed domain name registration to the Complainant who is the owner of the trademark or service mark for valuable consideration in excess of his documented out-of-pocket costs directly related to the disputed domain name, and also with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **haleon.co.nl**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-09-30

Publish the Decision