

ADMINISTRATIVE PANEL DECISION

Walgreen Co. v. Alex Sedwer
Case No. D2022-3176

1. The Parties

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

Respondent is Alex Sedwer, United States.

2. The Domain Name and Registrar

The disputed domain name <walgreenspharmacies.com> (hereinafter “Disputed Domain Name”) is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 26, 2022. On August 29, 2022, the Center transmitted by email to the Registrar a request for Registrar verification in connection with the Disputed Domain Name.

The Registrar’s verification identified Larry Lawson as the Registrant at that time. The Registrar also confirmed that the domain name Lock had been applied, reporting more specifically: “clientDeleteProhibited, clientTransferProhibited, clientUpdateProhibited.” The Registrar did not report any information about the aforementioned suspension of the account.

On August 30, 2022, Mr. Lawson sent an informal communication to the Center stating: “The Domain (walgreenspharmacies.com) is no longer active and not hosted on any server.” Complainant’s first amended Complaint identified Mr. Lawson as Respondent. The Center formally notified Mr. Lawson of the Complaint, and the proceedings commenced on September 6, 2022. On October 4, 2022, Mr. Lawson sent another informal communication to the Center advising that “[t]he domain (walgreenspharmacies.com) has been deactivated and it’s no longer active nor hosted on any hosting platform.”

Due to an oversight by the Complainant, on July 10, 2023, the Center requested an updated Registrar Verification. On July 11, 2023, the Registrar responded that the Registrant’s identity had changed and that the current Registrant of the Disputed Domain Name was Alex Sedwer. The updated and current Whois information for the Disputed Domain Name indicates that it was registered on April 24, 2023.

The Center sent an email to the Complainant on July 12, 2023, advising that due to an expiration issue, the Center was providing the new Registrant and contact information disclosed by the Registrar and invited the Complainant to submit an amendment to the Complaint. The Complainant filed its second amended Complaint on July 18, 2023.

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 Respondent of the Complaint, and the proceedings commenced on July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 28, 2023.

On October 3, 2023, the Center noted that no response had been filed by the September 26, 2023, due date and stated that it would proceed to appoint a Panel.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on August 30, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant operates one of the largest retail pharmacy chains in the United States, with approximately 9,000 retail stores. Complainant also maintains a comprehensive online pharmacy at <walgreens.com>, which sells pharmaceuticals and a wide variety of personal care products. Complainant filled more than a billion prescriptions in 2021. Approximately 9 million customers interact with Complainant online and in Complainant’s stores daily. In 2022, the publication Brand Finance ranked WALGREENS as the 49th most valuable brand in the United States.

Complainant owns numerous registrations for the trademark WALGREENS (hereinafter the “Mark”), including United States Trademark Registration No. 1057249 (registered on January 25, 1977).

The Disputed Domain Name resolves to a website operating under the name “Wal Green Pharmacies” and offering personal health and hygiene products for sale.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has rights in the Mark; that the Disputed Domain Name is identical or confusingly similar to the Mark; that it has not authorized Respondent to use its Mark and that Respondent does not have any rights or legitimate interests in the Disputed Domain Name; that Respondent registered the Disputed Domain Name in bad faith because Respondent likely knew of Complainant’s well-known Mark when it registered the Disputed Domain Name without any plausible good faith purpose; and that Respondent uses the Disputed Domain Name in bad faith for commercial gain to attract Internet users to its websites by creating source and affiliation confusion with Complainant and its Mark.

Complainant’s original Complaint alleged that the website associated with the Disputed Domain Name mimicked and impersonated its online WALGREENS pharmacy. Complainant alleged that, although the Disputed Domain Name resolved (at the time the Complaint was filed) to an inactive page displaying a

message stating “Account Suspended,” it previously resolved to a website operating under the name “Walgreens Pharmacy” and falsely claiming to be an authentic WALGREENS website, making misleading statements on the website such as “Some Walgreens Stores are 24 hours open (Like us), however lots of are close to you.”

Complainant alleged that said website offered prescription medications for sale without a prescription, promoting itself as “We are one of the legal Walgreens prescription medications Stores online that give you the opportunity to buy painkillers online and other RX drugs”.

Complainant filed a second amended Complaint in which it alleged that “during the proceeding, the Disputed Domain Name expired and was deleted. On April 24, 2023, Respondent registered the Disputed Domain Name through Nicenic International Group Co., Limited (the Registrar”). Complainant has reasons to believe that the prior registrant and the current Respondent are acting in concert, given that the Disputed Domain Name was registered again immediately after expiring; that the Disputed Domain Name was registered again with the same Registrar; and that the website to which the Disputed Domain Name resolves is a similar imitative pharmacy website.”

Complainant contends that Respondent has engaged in cyberflight to avoid the original Complaint filed in this action and, therefore, that Respondent should be held responsible for the prior Registrant’s impersonation of Complainant. Complainant also contends that Respondent has given false contact information, noting the difference between Respondent’s Whois contact address (Wildwood, New Jersey) and the contact address on Respondent’s website (Bulgaria).

Complainant contends that the current website purports to be an online pharmacy that offers to sell personal health and hygiene products and that Respondent’s online pharmacy exploits Complainant’s goodwill and seeks to sell products to Internet users who mistakenly believe they are dealing with Complainant.

Complainant alleges bad faith registration and use, contending that the Mark is well-known and that there is no plausible explanation for Respondent’s choice of the Disputed Domain Name other than an intent to target Complainant and exploit its goodwill.

Complainant contends that Respondent uses the Disputed Domain Name in bad faith to confuse and attract Internet users for commercial gain.

Complainant contends that Respondent’s cyberflight and false contact information are further evidence of bad faith.

B. Respondent

Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the WALGREENS trademark, as evidenced by its multiple trademark registrations including United States Trademark Registration No 2077524 (registered on July 8, 1997).

The Panel also finds that the Disputed Domain Name is confusingly similar to Complainant’s trademark as it includes an identical reproduction of the whole Mark.

The addition of the term “pharmacies” does not dispel the confusion caused by the reproduction of Complainant’s trademark in the Disputed Domain Name. See [WIPO Overview 3.0](#), section 1.8. See also,

Walgreen Co. v. Domain Privacy Service FBO Registrant / Name Redacted, WIPO Case No. [D2017-1550](#) (finding the domain names <walgreenpharmacystore.com> and <welgreenpharmacy.com> confusingly similar to Complainant's WALGREENS Mark); *Bayer AG v. Ivan I Ivanov*, WIPO Case No. [D2009-0916](#) ("The fact that the word 'pharmacy' is added to Complainant's trademark does not eliminate the similarity between Complainant's trademark and the Domain Names, as 'pharmacy' is the descriptive component of the Domain Names which merely describes one of Complainant's fields of business.").

Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that Respondent does not have rights or a legitimate interest in the Disputed Domain Name. Complainant has not authorized Respondent to use the Mark and there is no evidence that Respondent is commonly known by the Disputed Domain Name. Accordingly, Complainant has presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name. "[W]here 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." [WIPO Overview 3.0](#) section 2.1. Respondent has not rebutted Complainant's *prima facie* case.

Respondent is using the Disputed Domain Name to operate an online pharmacy that competes, however ineffectively, with Complainant's online pharmacy. For example, the online pharmacies of both parties offer to sell personal care products such as CETAPHIL Baby Lotion. Both online pharmacies state their prices in United States Dollars. Respondent's online pharmacy offers same-day delivery without any territory restriction.

Respondent's use of the Disputed Domain Name is not legitimate. See [WIPO Overview 3.0](#), Section 2.5.3 ("[A] respondent's use of a complainant's mark to redirect users (e.g., to a competing site) would not support a claim to rights or legitimate interests."); see also e.g., *Walgreen Company v. Soesja Gilissen*, WIPO Case No. [D2012-0781](#) (July 15, 2012) (finding no rights or legitimate interests by respondent in disputed domain name used to offer prescription medications, where complainant offered similar or identical products in its stores and via its own website under complainant's WALGREENS mark);

Complainant has satisfied Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. Complainant is well-known and the Mark is distinctive. It is likely that Respondent was well-aware of Complainant and its rights. It is more probable than not that Respondent registered the Disputed Domain Name to exploit Complainant's reputation and goodwill for quality online pharmacy services.

The Panel also finds that Respondent is using the Disputed Domain Name in bad faith. Respondent "[h]as intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location." Policy paragraph 4(b)(iv).

Complainant has satisfied paragraph 4(a)(iii) 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, <walgreenspharmacies.com> be transferred to Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: September 13, 2023