

## **ADMINISTRATIVE PANEL DECISION**

Olaplex, Inc. v. Pablo Scala, olaplex.com

Case No. D2023-3583

### **1. The Parties**

The Complainant is Olaplex, Inc., United States of America, represented by 101domain.com, United States of America.

The Respondent is Pablo Scala, olaplex.com, United States of America.

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

The disputed domain name <olaplexcareers.com> is registered with Squarespace Domains II LLC (the “Registrar”)<sup>1</sup>.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2023. On August 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 28, 2023, 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 August 31, 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”).

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<sup>1</sup> The Complaint was filed identifying the Registrar as Google LLC. On August 25, 2023, Google LLC confirmed that the disputed domain name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the decision by either Registrar.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 26, 2023.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on October 19, 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**

The Complainant, is one of the largest independent hair care brands in the world with over 100 patents for their formulas and treatments spanning the globe. The Complainant has been operating in the hair care industry since 2014 and has built an entire brand around its trademarked term OLAPLEX.

The Complainant's OLAPLEX mark was registered with WIPO on November 23, 2013 in class 3 for various hair product types and services. The Complainant owns a United States trademark registration for OLAPLEX Registration No. 4553436, with a registration date of June 17, 2014.

The Complainant's primary website, "www.olaplex.com", provides an online marketplace for customers to browse their broad range of "OLAPLEX" hair care products and services since the domain's registration on February 10, 2013.

The Complainant maintains a brand portfolio of over 200 domains consisting of ccTLD and gTLD variations of the trademarked term "OLAPLEX" including <olaplex.jobs> and <olaplex.legal>.

<olaplexcareers.com> (the "Disputed Domain Name") was registered on July 11, 2023. The Disputed Domain Name resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant has consistently and consecutively used its "OLAPLEX" trademarks in commerce since 2013. The Complainant's entire brand and company name is devoted to the trademark "OLAPLEX" and the Complainant should be permitted to reflect their trademark accordingly without the confusion of the Respondent's infringing domain name. The Respondent is actively seeking to create confusion in the online marketplace by adding the generic dictionary word "careers" to the end of Complainant's trademarked term "OLAPLEX" in an effort to gain credibility of Respondent's fictional affiliation with Complainant's company.

This cybersquatting method is not only used to capitalize on notorious brand recognition but also demonstrates the Respondent's intention to confuse consumers and target Complainant's prospective employees.

The "OLAPLEX" trademark is fanciful and does not occur in any common language as the term was created to represent this particular company. Thus, the "OLAPLEX" trademark has become notorious in Complainant's field to represent Olaplex, Inc., servicing customers in over a dozen global regions through a distribution network of certified stylists carrying Olaplex products in over 25,000 locations.

Consequently, this not only increases online confusion with Respondent's infringing domain among consumers but also demonstrates that the association between the "OLAPLEX" term and Complainant's company is strongly promoted worldwide through common domain extensions to reach various internet users. Complainant has been utilizing their "OLAPLEX" trademark consistently and consecutively for nearly a decade and created a global name in the hair care and cosmetic industry.

The Disputed Domain Name alone suggests that this website is where online visitors can search for or apply to career opportunities with "OLAPLEX", which is an established business name, trade name, and registered trademark of Complainant. Therefore, the domain <olaplexcareers.com> is confusingly similar to Complainant's trademark as it uses the entirety of Complainant's trademark and directs consumers to an unrelated website with nefarious intentions and for fraudulent purposes.

The Respondent has no rights or legitimate interests in the Disputed Domain Name because Complainant has not licensed nor allowed Respondent to use the "OLAPLEX" trademarks for any purpose.

The Respondent is not commonly known by the domain name and registered the domain primarily for the purposes of scamming prospective employees and fraudulently obtaining personal and financial data from victims who mistakenly believe the Disputed Domain Name and associated email addresses are affiliated with Complainant's company, which they are not. Respondent is not making a legitimate non-commercial or fair use of the domain because the Disputed Domain Name resolves to an unavailable website, with suspended email services as a result of abusive tactics.

The Complainant has not licensed nor allowed Respondent to use the "OLAPLEX" trademarks for any purpose, Complainant is unaware of any registered trademarks using the term "OLAPLEX" owned by the Respondent, and the domain name was registered primarily for the purpose of disrupting and tarnishing the business of Complainant's notorious hair care company.

The Respondent fraudulently used the Disputed Domain Name to collect personal and financial data from individuals seeking to work for Complainant's company by combining the "OLAPLEX" brand term with a generic dictionary word used for employment opportunities. Respondent's registration of the Disputed Domain Name prevents Complainant from reflecting their "OLAPLEX" trademark in the corresponding domain. Since the recent registration of the Disputed Domain Name Respondent has not used nor prepared to use it for any legitimate offering, and is only using the domain primarily for the purpose of disrupting Complainant's business. By impersonating a Director of Complainant's company, Respondent was swindling unassuming job seekers through false communications. Respondent registered and used the Disputed Domain Name because the domain is one that Complainant would likely own to conduct an HR process. It is indisputable from the signature of the emails that spear phishing tactics were used as the sender incorrectly appears to be a "Lead Recruiter" of Complainant's organization with Complainant's company information and corporate address listed. This has led the Complainant to believe the domain was registered and is being used in bad faith. It is beyond reasonable to presume the Respondent knew or should have known about Complainant's rights to the infringing domain. As such, the domain is deliberately being used to create confusion with the Complainant's trademark "OLAPLEX".

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has demonstrated it owns registered trademark rights in the well-known OLAPLEX mark and has shown that no other entity has rights in or uses the Complainant's mark. The addition of "careers" does not prevent the Complainant's trademark from being recognizable in the Disputed Domain Name.

The generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), sections 1.8 and 1.11.1, and *F. Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name years after the Complainant had begun using its OLAPLEX mark indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Moreover, the Disputed Domain Name incorporates the Complainant’s trademark in its entirety along with the “careers”, potentially conveying to unsuspecting Internet users the false belief that any email connected to the Disputed Domain Name is associated with the Complainant. Such a risk of affiliation or association with the Complainant and its mark cannot constitute fair use.

In the absence of any evidence rebutting the Complainant’s *prima facie* case indicating the Respondent’s lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

The Disputed Domain Name was registered years after the Complainant first registered and used its OLAPLEX marks. The evidence provided by the Complainant with respect to the extent of use and fame of its OLAPLEX marks combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant’s widely-known OLAPLEX marks, and knew it had no rights or legitimate interests in the Disputed Domain Name.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

There is *prima facie* no reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the OLAPLEX trademark. While the Disputed Domain Name does not resolve to an active website, there is ample evidence of bad faith use on the part of the Respondent specifically using it to secure potentially sensitive personal information for individuals thinking they are applying to have a job with the Complainant. UDRP panels have found that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. See section 3.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the 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 <olaplexcareers.com> be transferred to the Complainant.

*/Colin T. O'Brien/*

**Colin T. O'Brien**

Sole Panelist

Date: November 2, 2023