

## **ADMINISTRATIVE PANEL DECISION**

Haleon UK IP Limited v. John Trab, Haleon  
Case No. D2023-4529

### **1. The Parties**

The Complainant is Haleon UK IP Limited, United Kingdom, represented by SafeNames Ltd, United Kingdom.

The Respondent is John Trab, Haleon, United Kingdom.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2023. On October 31, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 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 November 3, 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 the Respondent of the Complaint and the proceedings commenced on November 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2023.

The Center appointed Antony Gold as the sole panelist in this matter on January 5, 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 is a multinational consumer healthcare company established in July 2022 as a corporate spin-off from the pharmaceutical and biotechnology company, GSK plc. The Complainant's revenues were GBP 10.9 billion in 2022, its products are available in more than 100 countries, and it has over 24,000 employees.

The Complainant's HALEON brand was launched in February 2022 and its launch was widely covered in the media. The Complainant has registered many trade marks to protect its HALEON brand including, by way of example only, International Trade Mark, registration number 1674572, in multiple classes, registered on November 29, 2021. The Complainant also owns and operates the domain name <haleon.com> which resolves to a website providing information about the Complainant's products and business.

The disputed domain name was registered on April 10, 2023. It does not resolve to an active website.

#### **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 a trade mark in which it has rights in that it incorporates the Complainant's HALEON mark in full and the additional term "tech" does not prevent a finding of confusing similarity under the first element of the Policy;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant's mark is a distinctive coined term and, to the best of the Complainant's knowledge, the Respondent has not registered any trade marks for "haleon" or any similar term. The Respondent is neither connected to, nor affiliated with, the Complainant nor has it been licensed by the Complainant to register domain names featuring its HALEON mark. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods and services, nor is it making a noncommercial or fair use of it;
- the disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name in bad faith with the intention of taking advantage of the Complainant's brand. The fact that the disputed domain name does not resolve to an active website does not preclude a finding of bad faith under the doctrine of passive holding. Furthermore, the Respondent's activation of mail exchange records for the disputed domain name, enabling it to be used for sending phishing emails, coupled with the Respondent's failure to reply to the Complainant's cease and desist letter are further indicators of bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or

requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements in respect of the disputed domain name in order to succeed in its Complaint: (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and (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.

#### **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 trade mark and the disputed domain name; see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of its HALEON trade mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in the case of the disputed domain name, is usually disregarded when assessing confusing similarity. The Complainant's HALEON mark is reproduced in its entirety within the disputed domain name and is clearly recognizable within it. In these circumstances the addition of the term "tech" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.8.

For the above reasons, 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 by which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. Whilst 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 impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services (non-use of the disputed domain name, self-evidently, does not comprise use of it); see paragraph 4(c)(i) of the Policy, and the [WIPO Overview 3.0](#), section 2.2;

- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3 and in particular, the comment that: “Mere assertions that a respondent is commonly known by the domain name will not suffice; respondents are expected to produce concrete credible evidence”. With this in mind, the fact that the term “Haleon” appears as a term within the registrant details for the Respondent disclosed by the Registrar does not establish that the Respondent is commonly known by this or any similar term, not least when the Respondent has not made any assertion to this effect;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [WIPO Overview 3.0](#), section 2.4;
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

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

The Complainant has established that the launch of its HALEON brand in February 2022 was widely covered in the media and therefore likely to have come to the attention of the Respondent. There is no obvious good faith explanation evident within the record as to why the disputed domain name was registered by the Respondent, nor has it offered one. The mere registration of a domain name that is identical or confusingly similar to a famous or widely known trade mark by an unaffiliated entity can by itself create the presumption of bad faith; see section 3.1.4 of the [WIPO Overview 3.0](#). The Panel accordingly finds the registration of the disputed domain name to have been in bad faith.

Paragraph 4(b) of the Policy establishes a list of non-exhaustive 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. However, other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. In particular, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding; see the [WIPO Overview 3.0](#), section 3.3 and by way of example, *Compagnie Générale des Etablissements Michelin v. zhouhaotian*, WIPO Case No. [D2015-1728](#). Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Panel notes the distinctiveness and reputation of the Complainant's trade mark and the composition of the disputed domain name; (ii) the Respondent has not provided a response to the Complaint nor is there any evidence of actual or contemplated good faith use of the disputed domain name; (iii) the Respondent has sought to conceal its identity through use of a privacy service; and (iv) there is no plausible good faith use to which the disputed domain name can be put by the Respondent. In the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. See also, for example, *Alstom v. Contact Privacy Inc. Customer 1244065242 / Michelle Chung, Chung Limited Co*, WIPO Case No. [D2019-2718](#).

For the above reasons, the Panel finds the Respondent's registration and use of the disputed domain name is in bad faith. The Respondent's activation of mail exchange records for the disputed domain name, which would enable it to be used for sending phishing emails and its failure to reply to the Complainant's cease and desist letter provide further affirmation of the Respondent's bad faith.

## 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 <haleontech.com> be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: January 17, 2024