

## **ADMINISTRATIVE PANEL DECISION**

Haleon UK IP Limited v. Web Master, Expired domain caught by auction winner.\*\*\*Maybe for sale on Dynadot Marketplace\*\*\*

Case No. D2024-3215

### **1. The Parties**

The Complainant is Haleon UK IP Limited, United Kingdom ("U.K."), represented by SafeNames Ltd., U.K.

The Respondent is Web Master, Expired domain caught by auction winner.\*\*\*Maybe for sale on Dynadot Marketplace\*\*\*, China.

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

The disputed domain name <haleonmenopausetogether.com> is registered with Dynadot Inc (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 6, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on August 6, 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 (web master) and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 12, 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 the same August 12, 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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 10, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on September 25, 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 British multinational consumer healthcare company established as a corporate spin-off from GSK plc in July 2022 under the name GlaxoSmithKline Consumer Healthcare (UK) and changed its name to HALEON UK IP Limited on April 14, 2023. The Complainant company holds registrations for the trademark HALEON and variations of it in numerous jurisdictions, including, for example, International Registration No. 1674572 for the mark HALEON, registered on November 29, 2021 and U.K. trademark registration 00003726732, registered on March 11, 2022.

The Complainant owns the domain name <haleon.com>, which resolves to its main website.

The Respondent registered the disputed domain name on May 24, 2024. It resolves to the domain aftermarket website Dan.com website offering the disputed domain name for sale at USD 2,850.

On July 2, 2024, the Complainant sent a cease and desist letter to the Respondent, asserting its trademark rights and requesting the transfer of the disputed domain name to the Complainant. The Respondent did not reply to the Complainant's cease-and-desist letter.

#### **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 cites its trademark registrations in numerous countries for the mark HALEON, as prima facie evidence of ownership which predate the Respondent's registration of the disputed domain name. Further, the Complainant provided evidence that shows that since its launch in February 2022, the HALEON trademark has developed considerable renown and goodwill worldwide.

With regard to the requirement of "identity or confusing similarity between the trademark and the domain name" pursuant to paragraph 4(a)(i) of the Policy, the Complainant submits that:

- the disputed domain name contains the entirety of the HALEON mark in addition to the terms "menopause" and "together" and that the HALEON mark remains recognizable in the disputed domain name;
- the addition of the descriptive terms "menopause" and "together" does not affect a finding of confusing similarity for the purposes of the first element;
- the generic top-level domain ".com" featured in the disputed domain name, the Complainant should be disregarded it under the first element as it is a standard registration requirement.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the use of a domain name comprising a complainant's trademark, for the purpose of advertising its sale on a reseller platform, does not constitute a bona fide offering of goods or services;
- the term "haleon menopause together" has no generic meaning in itself and therefore the offer for sale at USD 2,850 is, likely based on the value of the HALEON mark included in the disputed domain name;

- the disputed domain name was registered on the same day the Complainant filed for the trademark HALEON MENOPAUSE TOGETHER;
- the Respondent is not commonly known by the mark HALEON or any of the terms contained in the disputed domain name, nor is offering any goods or services by the term “haleon” or any other terms in the disputed domain name;
- there is no plausible reason for the registration and use of the disputed domain name, other than the motive of taking advantage of the goodwill and valuable reputation attached to the HALEON brand;
- the mere ownership of the disputed domain name, in itself, does not confer a right or legitimate interest on the Respondent under this heading;
- the Complainant’s HALEON mark is well known and distinctive in respect to its consumer healthcare products and related services and no evidence has come to light since the disputed domain name’s registration that the Respondent has intended to use the disputed domain name in a legitimate non-commercial or fair way;
- the Respondent is using the disputed domain name to solicit purchase of it for the price of USD 2,850, far in excess of nominal registration and upkeep costs; this is clearly a ‘commercial’ use, and cannot be deemed to be “fair use” of the Complainant’s HALEON trademark.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the Complainant’s trademark registrations predate the creation date of the disputed domain name by three years and that the Complainant has accrued substantial goodwill in the HALEON name;
- the HALEON name, given that it maintains no definition beyond its association with the Complainant’s offerings;
- in light of such distinctiveness, it is manifestly apparent that any individual exercising the simplest degree of due diligence would have been made aware of the Complainant’s rights in the HALEON mark;
- the disputed domain name was registered on the same day that the Complainant filed a trademark registration for the term “haleon menopause together”, which the domain name verbatim reproduces;
- the Respondent also used the disputed domain name in bad faith prior to notice of the dispute;
- the disputed domain name redirects to the domain aftermarket website Dan.com, where the domain name is presented for sale at a “Buy now” price of USD 2,850 which constitutes a price that significantly exceeds the Respondent’s “out-of-pocket costs related to the domain name;
- a lack of reply to a cease and desist letter prior to commencing dispute proceedings infers bad faith

## **B. Respondent**

The Respondent did not reply to the Complainant’s contentions

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

- (i) the disputed 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 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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “‘menopause’ and ‘together’”, 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.

Based on the record, the Complainant asserts without contradiction by the Respondent that the Respondent has used the disputed domain name to redirect Internet users to the aftermarket website Dan.com website offering the disputed domain name for sale at USD 2,850 but has not actively used the disputed domain name.

Panels have held that the mere ownership of a domain name and use of a domain name comprising a complainant’s trademark, for the purpose of advertising its sale on an aftermarket platform, does not constitute a bona fide offering of goods or services and does not by itself confer rights or legitimate interests on a respondent.

The Panel therefore 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 provided evidence of multiple trademark registrations for the HALEON mark that predate the registration of the disputed domain name.

In light of the fact that the disputed domain name comprises the Complainant's trademark in its entirety and that the disputed domain name was registered on the same day the Complainant filed for the trademark HALEON MENOPAUSE TOGETHER the Panel has no doubt that the Respondent was aware of the Complainant and the Complainant's trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Further, Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel notes that the disputed domain name comprising the Complainant's mark in its entirety resolves to the domain aftermarket site Dan.com offering it for sale for the price of USD 2,850 which suggests that the Respondent unfairly targeted the Complainant and registered the disputed domain names primarily to sell the disputed domain name to the Complainant (or its competitor) for profit. This is evidence of bad faith under paragraph 4(b)(i) of the Policy. Furthermore, the Respondent registered the disputed domain name on the same day the Complainant filed for the trademark HALEON MENOPAUSE TOGETHER which is identical with the disputed domain name and casts additional doubt on the nature of the Respondent's conduct.

Finally, the Panel also notes the Respondent has not attempted to refute any of the Complainant's contentions and did not reply to its cease and desist letter, [WIPO Overview 3.0](#), section 3.2.1.

The Panel therefore holds that the Complainant has also 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 <haleonmenopausetogether.com> be transferred to the Complainant.

*/Torsten Bettinger/*

**Torsten Bettinger**

Sole Panelist

Date: October 9, 2024