

ADMINISTRATIVE PANEL DECISION

Kalos Surgical Associates, LLC v. Anailis Bustillo
Case No. D2025-3746

1. The Parties

The Complainant is Kalos Surgical Associates, LLC, United States of America ("United States"), represented by The Seigel Law Firm LLC, United States.

The Respondent is Anailis Bustillo, United States.

2. The Domain Name and Registrar

The disputed domain name <kalosbiomedspa.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 15, 2025. On September 16, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 16, 2025, 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 (Kalos Bio Med Spa LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 2025, 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 amendment to the Complaint on September 18, 2025.

The Center verified that the Complaint together with the amendment to the 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 September 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 15, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on October 27, 2025. 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 United States company engaged in the business of cosmetic surgery and medical spa treatments. To this end, the Complainant has registered the United States Patent and Trademark Office ("USPTO") service mark KALOS, registration no. 6,800,808, registration date July 26, 2022 in international class 44 for cosmetic and plastic surgery, health spa services, and medical spa services.

The Respondent is an individual who registered the disputed domain name on October 19, 2024. The Respondent has a website at the disputed domain name that advertises the same services that the Complainant offers, and that promises these services will become available through the Respondent's website in the near future. In November, 2024, the Respondent attempted to register the disputed domain name as a USPTO service mark, but was refused in May, 2025 because of conflict with the Complainant's KALOS service mark. The Respondent then abandoned the application.

5. Parties' Contentions

A. Complainant

- The Complainant's KALOS service mark has been used for cosmetic surgery since 2009.
- The disputed domain name contains the entire KALOS service mark. Therefore, the disputed domain name is confusingly similar to the Complainant's service mark.
- The Respondent has not been using or making preparations to use the disputed domain name in connection with a bona fide offering of goods or services.
- The Respondent has not been commonly known by the disputed domain name.
- The Respondent is not making a non-commercial or fair use of the disputed domain name.
- The Respondent knew of the Complainant before registering the disputed domain name because the Respondent tried to modify the Complainant's service mark in the Respondent's USPTO application.
- The Respondent registered the disputed domain name to capitalize on the Complainant's good will in the service mark KALOS: the Respondent seeks to misdirect Internet traffic from the Complainant to the Respondent for financial gain.

B. Respondent

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

6. Discussion and Findings

Pursuant to Policy paragraphs 4(a)(i) - (iii), the Panel may issue a decision for the Complainant and grant a transfer of the disputed domain name if the Complainant establishes that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided data showing that it owns a USPTO service mark for KALOS, and the Panel finds this satisfies the Policy requirement that the Complainant must have trademark or service mark rights. WIPO Overview of WIPO Panel Views on Selected UDRP Questions ("[WIPO Overview 3.0](#)"), section 1.2.1. The Complainant contends that the disputed domain name is confusingly similar to its service mark because it contains the whole service mark. The Panel agrees, and finds that the Complainant's service mark is readily recognizable, and hence the disputed domain name is confusingly similar to the Complainant's service mark even though the Respondent has added the term "biomedspa". [WIPO Overview 3.0](#), section 1.8.

The Panel thus finds that the Complainant has carried its burden of proof under Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

It is well-settled under the Policy that, owing to the difficulty of a complainant proving the negative proposition that a respondent does not have rights or legitimate interests in a disputed domain name, it is sufficient in the first instance that a complainant make out a prima facie case that a respondent does not have rights or legitimate interests in a disputed domain name. The Complainant herein contends that there is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, it is not commonly known by the disputed domain name, and it is not making a legitimate non-commercial or fair use, and the Panel finds this is a prima facie case under the Policy. [WIPO Overview 3.0](#), section 2.1.

The Policy at paragraphs 4(c)(i),(ii) and (iii) sets out three ways in which the Respondent could show that it does have rights or legitimate interests in the disputed domain name. Even though the Respondent did not come forward with a response to try to rebut the Complainant's prima facie case, the Panel will examine the case record to see whether there might be evidence that the Respondent has rights or legitimate interests in the disputed domain name. WIPO 3.0, section 2.1.

Under Policy paragraph 4(c)(i), the Respondent would have to show that the Respondent has been using the disputed domain name to make a bona fide offering of goods or services. However, the Respondent as yet does not offer any services, merely promising for months at the disputed domain name website that the business will "launch soon". See *Carrefour SA v. Ibrahim Ghazzali, Yegara HOST*, WIPO Case No. [D2023-5403](#) where the panel found: "On the contrary, as Complainant demonstrated, the Domain Name resolved to a 'coming soon' page with a logo mimicking that of Complainant's. The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name".

As for Policy paragraph 4(c)(ii), it does not look as though the Respondent has ever been commonly known by the disputed domain name, and as for Policy paragraph 4(c)(iii), it is nowhere apparent that the Respondent ever used the disputed domain name for a non-commercial or fair use. On the contrary, the Respondent is above-board that her intentions are commercial.

The Panel therefore finds that the Complainant has met its burden of proof under Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Policy at paragraph 4(b) provides four non-exhaustive circumstances under which a respondent may be found to have registered and to be using a disputed domain name in bad faith. However, in the case at hand, while the Respondent's website at the disputed domain name states that the Respondent's cosmetic surgery and health spa business will "launch soon", there is little else to show that the Respondent is on the point of offering cosmetic surgery and related services even though the disputed domain name was registered back in October of 2024. The Panel finds that the doctrine of passive holding fits the Respondent's course of conduct in this case. Among the various factors Panels have cited as constituting passive holding in bad faith, here the Respondent has:

- Attempted to conceal the Respondent's identity/location;
- Shown scant progress toward offering cosmetic surgery services beyond posting "launching soon" on the website;
- Begun using the Complainant's service mark without authorization.
- Finally, and in particular in this case, the Respondent has held on to the disputed domain name even after the USPTO denied the Respondent's application to register a service mark using the disputed domain name because it was confusingly similar to the Complainant's KALOS service mark.

See, e.g., *VEDA GmbH v. Nicholas Silverstone*, WIPO Case No. [D2002-1040](#) for a list of passive holding factors that included no activity at the website, false identity and location information, and no response to the complaint.

Per the above, the Panel finds that the Complainant has carried its burden of proof under Policy paragraph 4(a)(iii) to show that the Respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.3.

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 <kalosbiomedspa.com> be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: November 10, 2025