



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301793
Complainant:	FULL SCALE FULL SPPED PTD
Respondent:	Web Commerce Communications Limited
Disputed Domain Name(s):	halara-usa.com, halarafactoryoutlet.com, halaraireland.com

1. The Parties and Contested Domain Name

The Complainant is FULL SCALE FULL SPEED PTD of 71 UBI Road 1#08-34, Oxley Bizhub, Singapore 408732.

The Respondent is Web Commerce Communications Limited of Bukit Jalil, Malaysia.

The domain names at issue are **halara-usa.com**, **halarafactoryoutlet.com**, and **halaraireland.com** registered by Respondent with Alibaba.com at domainabuse@service.aliyun.com.

2. Procedural History

A Complaint was filed by Complainant on August 14, 2023, and a corrected Complaint was filed on August 16, 2023. ADNDRC notified the Registrar, Namecheap, Inc. of the Complaint on August 17, 2023. Respondent was served with the Complaint on September 5, 2023. Respondent failed to respond to the Complaint by September 25, 2023. ADNDRC served Notice of Default on all parties on September 29, 2023. Sandra J. Franklin was appointed as the Sole Panelist for this proceeding on September 29, 2023.

3. Factual background

Complainant is an international retailer of women's clothing, sportswear and accessories, and has been running its e-commerce business at halara.com since 2020. Complainant holds registrations for the HALARA mark with the United States Patent and Trademark Office ("USPTO").

Respondent registered the **halara-usa.com** and **halarafactoryoutlet.com** domain names on January 4, 2023, and the **halaraireland.com** on January 6, 2023, and uses them to compete with Complainant.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. Respondent's **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain name are confusingly similar to Complainant's HALARA mark.
- ii. Respondent has no rights or legitimate interests in the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names.
- iii. Respondent registered and uses the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names in bad faith.

B. Respondent did not file a Response to the Complaint.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

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

The Panel finds that Complainant prevails on all three elements, as discussed below.

A) Identical / Confusingly Similar

The Panel finds that Complainant has rights in the HALARA mark through registration with the USPTO. *See DIRECTV, LLC v. The Pearline Group*, FA 1818749 (Forum Dec. 30, 2018) ("Complainant's ownership of a USPTO registration for DIRECTV demonstrate its rights in such mark for the purposes of Policy ¶ 4(a)(i).").

Respondent's **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names use Complainant's HALARA mark and merely adds the generic or descriptive words and the ".com" gTLD. These changes do not distinguish a disputed domain name from a mark under Policy ¶ 4(a)(i). *See Microsoft Corporation v. Thong Tran Thanh*, FA 1653187 (Forum Jan. 21, 2016) (determining that confusing similarity exist where [a disputed domain name] contains Complainant's entire mark and differs only by the addition of a generic or descriptive phrase and top-level domain, the differences between the domain name and its contained trademark are insufficient to differentiate one from the other for the purposes of the Policy.) Therefore, the Panel finds that Respondent's **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names are confusingly similar to Complainant's HALARA mark.

The Panel finds that Complainant has satisfied Policy ¶ 4(a)(i).

B) Rights and Legitimate Interests

Once Complainant makes a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy ¶ 4(a)(ii), the burden shifts to Respondent to show it does have rights or legitimate interests. *See Advanced International Marketing Corporation v. AA-1 Corp*, FA 780200 (Forum Nov. 2, 2011) (finding that a complainant must offer some evidence to make its *prima facie* case and satisfy Policy ¶ 4(a)(ii)); *see also Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (Forum Apr. 12, 2014) (“Under Policy ¶ 4(a)(ii), Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests in respect of an at-issue domain name and then the burden, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests”).

Complainant contends that Respondent has no rights or legitimate interests in the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names as Respondent is not known by the domain names and Complainant has not authorized Respondent to use its HALARA mark. The WHOIS identifies “Web Commerce Communications Limited” as the registrant. Therefore, the Panel finds that Respondent is not commonly known by the disputed domain names, and thus has no rights under Policy ¶ 4(c)(ii). *See Amazon Technologies, Inc. v. Suzen Khan / Nancy Jain / Andrew Stanzy*, FA 1741129 (Forum Aug. 16, 2017) (finding that respondent had no rights or legitimate interests in the disputed domain names when the identifying information provided by WHOIS was unrelated to the domain names or respondent’s use of the same); *see also Navistar International Corporation v. N Rahmany*, FA1505001620789 (Forum June 8, 2015) (finding that the respondent was not commonly known by the disputed domain name where the complainant had never authorized the respondent to incorporate its NAVISTAR mark in any domain name registration).

Complainant argues that Respondent fails to use the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names for a *bona fide* offering of goods or services or a legitimate noncommercial or fair use because Respondent uses it to compete with Complainant. Using a disputed domain name to compete with a complainant is not a *bona fide* offering of goods or services under Policy ¶ 4(c)(i) or a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii). *See Invesco Ltd. v. Premanshu Rana*, FA 1733167 (Forum July 10, 2017) (“Use of a domain name to divert Internet users to a competing website is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.”) Complainant provides screenshots of the websites at the disputed domain name showing identical resolving websites that offer competing goods, using Complainant’s mark throughout the websites. The Panel finds that this is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, and thus Respondent has no rights under Policy ¶ 4(c)(i) or Policy ¶ 4(c)(iii).

The Panel finds that Complainant has satisfied Policy ¶ 4(a)(ii).

C) Bad Faith

Complainant claims that Respondent registered and uses the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names in bad faith to compete with Complainant. The Panel agrees and finds bad faith attraction for commercial gain under Policy ¶ 4(b)(iv). *See Bittrex, Inc. v. Wuxi Yilian LLC*, FA 1760517 (Forum Dec. 27, 2017) (finding bad faith per Policy ¶ 4(b)(iv) where “Respondent registered and uses

the <lbitrex.com> domain name in bad faith by directing Internet users to a website that mimics Complainant's own website in order to confuse users into believing that Respondent is Complainant, or is otherwise affiliated or associated with Complainant.”)

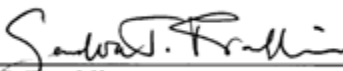
Complainant also claims that Respondent had knowledge of Complainant's rights in the HALARA mark when it registered the disputed domain name based on the fame of the HALARA mark. The Panel agrees, noting the widespread e-commerce use of the HALARA mark long before Respondent registered the disputed domain names, and Respondent's use of the domain names to directly compete with Complainant, and thus finds further bad faith under Policy ¶ 4(a)(iii). *See HDR Global Trading v. Garreth Griggs*, FA 200400189660 (Forum April 28, 2020) (“Respondent had actual knowledge of Complainant's rights in the BITMEX mark when it registered the <xbitmex.com> mark as a domain name. Respondent's actual knowledge is evident from Respondent's use of the domain name to directly compete with Complainant as discussed above. Registering and using a confusingly similar domain name to directly compete with knowledge of Complainant's rights in such domain name in itself shows bad faith registration and use pursuant to Policy ¶ 4(a)(iii).”)

The Panel finds that Complainant has satisfied Policy ¶ 4(a)(iii).

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the **halara-usa.com**, **halarafactoryoutlet.com**, and **halarireland.com** domain names be **TRANSFERRED** from Respondent to Complainant.



Sandra J. Franklin

Panelist

Dated: October 7, 2023