

ADMINISTRATIVE PANEL DECISION

Insured Aircraft Title Service, LLC v. Privacy service provided by Withheld for Privacy ehf / Noah Josh, Sergio Manny, Karl Anderson, Eve Manesh, Regina Hank, Knight Carl
Case No. D2022-2011

1. The Parties

The Complainant is Insured Aircraft Title Service, LLC, United States of America (“United States”), represented by Crowe & Dunlevy, P.C., United States.

The Respondents are Privacy service provided by Withheld for Privacy ehf, Iceland / Noah Josh, United States; Sergio Manny, Spain; Karl Anderson, United States; Eve Manesh, United States; Regina Hank, France; and Knight Carl, United States.

2. The Domain Names and Registrar

The disputed domain names <insuredaircraft.com>, <insuredairccraft.com>, <insuredairrcraft.com>, <insuredlaircraft.com>, <insuresdaircraft.com>, and <insurredaircraft.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 2, 2022. On June 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 3, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 2022 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 June 17, 2022.

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 June 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 21, 2022.

The Center appointed John Swinson as the sole panelist in this matter on July 27, 2022. 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 that provides worldwide escrow services and title and document recordation services to the aviation industry. The Complainant was founded in 1963. The Complainant uses the domain name <insuredaircraft.com> (created in 1998) for its primary website and for email addresses of its employees.

The Complainant owns United States Trademark Registration No. 4,086,419 for "Insured Aircraft Title Service, Inc." and device. The device is a grouping of four blue squares with the letters I, A, T, and S. This trademark was registered on January 17, 2012. The registration disclaims "Insured Aircraft Title Service, Inc." except as shown in the mark as registered.

The disputed domain names were registered as follows:

<insuredaircraft.com> - Noah Josh, United States – April 4, 2022
<insuredaircraft.com> - Karl Anderson, United States – December 15, 2021
<insuredaircraft.com> - Sergio Manny, Spain – September 5, 2021
<insuredaircraft.com> - Eve Manesh, United States – September 5, 2021
<insuredaircraft.com> - Regina Hank, France – September 5, 2021
<insuredaircraft.com> - Knight Carl, United States – November 17, 2021

Little is known about the Respondents (if they are even real, let alone separate, individuals), because no Response was filed.

The disputed domain names do not resolve to an active website.

The disputed domain names have been used to send fraudulent emails to the Complainant that impersonate the Complainant's staff (including the Complainant's CEO) with the aim of having money transferred to any account set out in the fraudulent emails. It appears that the emails are sent by someone with knowledge of transactions in which the Complainant is involved.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant was founded in 1963 and has grown to become one of the world's largest aircraft title and escrow companies with clients on every inhabited continent.

The Complainant owns the United States trademark registration referred to above. The Complainant's primary corporate website is hosted at "www.insuredaircraft.com".

The disputed domain names are each intended to draw confusion with the Complainant's federally registered trademark. The disputed domain names are examples of typosquatting and are intentionally confusingly similar to the Complainant's federally registered trademark.

The Complainant has not authorized, licensed or permitted the Respondent to register or use the disputed domain names or to otherwise use the Complainant's trademark. The disputed domain names do not resolve to active websites.

The Respondent is engaged in a fraudulent scheme broadly referred to as "CEO Impersonation", in which the Respondent – using the disputed domain names – falsely impersonates one of the Complainant's executive officers or employees and attempts to disrupt active transactions involving the Complainant using email addresses based on the disputed domain names, with the apparent aim of diverting transaction funds to the Respondent's private bank accounts.

This sophisticated scheme requires the Respondent to have knowledge of a pending transaction involving the Complainant, or at least knowledge of parties to a transaction involving the Complainant. This suggests that the Respondent has impermissibly gained access to third-party computer or email systems to obtain background information regarding these transactions, which is then used to camouflage the fraudulent email. Only the most discerning parties could have detected the fraud from the face of the fraudulent emails.

The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is using the disputed domain names solely for the purpose of perpetrating a fraud on unwitting parties within the aircraft title market. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.

The Respondent is using the disputed domain names to perpetrate a criminal impersonation scheme aimed at defrauding unwitting third parties with bogus contact and banking information. Given that the use of a domain name for *per se* illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

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

The onus of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Procedural Issue: Consolidation of Multiple Respondents

The Complaint has been filed against multiple Respondents and relates to multiple domain names.

Paragraph 3(c) of the Rules states that “the complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder”. Paragraph 10(e) of the Rules gives the Panel discretion to decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and the Rules.

In considering whether to consolidate a complaint, panels look at whether:

- the domain names or corresponding websites are subject to common control; and
- the consolidation would be fair and equitable to all parties.

Procedural efficiency also underpins panel consideration in respect of consolidation.

In assessing common control, panels have considered a range of factors to determine whether such consolidation is appropriate. These include similarities in or other relevant aspects of the registrants' identities, the nature of the marks at issue and naming patterns in the disputed domain names. See, for example, *SanLorenzo S.p.A. v. Dzhek V Sparro, Hitler Neosilil, Hujuskin Pushkin, Petr Frankenstein*, WIPO Case No. [D2018-2946](#).

The Panel considers that it was appropriate to consolidate these cases and decide the issues concerning all six disputed domain names in the present case. There are a range of factors that the Panel has taken into account in making this decision including that the disputed domain names are being used for similar fraudulent schemes targeted at the Complainant with at least one scheme involving two of the disputed domain names, all the disputed domain names are misspellings of the first two words of the Complainant's trademark, the disputed domain names have all been registered with the same registrar, and three of the disputed domain names were registered on the same day.

Therefore, the Panel finds it appropriate to consolidate the Complaint as the circumstances in this case strongly indicate that the disputed domain names are subject to common control and that the consolidation would be fair and equitable to all parties, and there is no prejudice to any person in doing so. The Panel will consider the Respondents as one Respondent and thus will continue to refer to these as “the Respondent” in singular.

Accordingly, this Panel, having regard to all relevant circumstances, concludes that the consolidation of the multiple domain name disputes asserted by the Complainant against the Respondents – who it is noted have not appeared in the present proceeding to contest any of the claims (whether on substance or procedure) made against it or them – is consistent with the Policy and Rules.

B. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns a trademark registration for “Insured Aircraft Title Service, Inc.” and device.

All the disputed domain names include misspellings of the first two words of the Complainant's “Insured Aircraft Title Service, Inc.” trademark.

The Complainant's registered trademark includes a design element, as described above. The design element is incapable of representation in a domain name, and therefore, in the present case, can be disregarded for the purposes of assessing identity or confusing similarity under the first element of the Policy.

The Complainant's trademark registration includes a disclaimer of the textual elements of the Complainant's trademark. Although unhelpful, this is not fatal to the Complainant's case. See *Major Wire Industries Limited v. DigitalOne AG*, WIPO Case No. [D2015-0284](#). In such circumstances, the Complainant is usually required to demonstrate that the disclaimed words relied upon have acquired distinctiveness through use. The Complainant has asserted that the Complainant "has grown to become one of the world's largest aircraft title and escrow companies with clients on every inhabited continent". Although little evidence is provided to support the Complainant's assertion it is noted that the mark has been registered for a decade and that the Complainant has existed for some 50 years, and this statement was not disputed by the Respondent. The Complainant's own domain name consists of the words "insured aircraft", suggesting that there may be a secondary meaning in respect of these two words – which the disputed domain names are all based on. Further, the Respondent has registered multiple misspellings of the Complainant's trademark, which suggests that the Complainant's trademark has a reputation, and that these registrations are not a random occurrence.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at paragraph 1.10 states: "To the extent the complainant could nevertheless establish UDRP standing on the basis of a mark with design elements, the existence of such elements (or a disclaimer) would be relevant to the panel's assessment of the second and third elements, e.g., in considering possible legitimate trademark co-existence or scenarios where the textual elements correspond to a dictionary term." Here, the Complainant's trademark (as a whole) is not a dictionary term. The Panel considers that where the Respondent is involved in a fraudulent scheme, using misspellings of the Complainant's domain name to send emails to the Complainant to steal money from the Complainant or its clients, then the textual elements of the Complainant's registered trademark should be given appropriate consideration when deciding whether the Complainant meets the requirements of the Policy. The Panel also notes that the concept expressed in [WIPO Overview 3.0](#) section 1.15 as regards website content applies with equal force insofar as fraudulent emails targeting the relevant mark are concerned.

The Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademark.

The Complainant succeeds on the first element of the Policy.

C. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or 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; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is 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 trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant alleges that the Respondent sent emails from email addresses at the disputed domain names to the Complainant's personnel, with fraudulent invoices and fraudulent payment instructions. The Complaint included copies of some of these emails. Such use of the disputed domain names is not *bona fide*. *Akzo Nobel N.V. v. Privacy Service Provided by Withheld for Privacy ehf / jennifer alonso, jennyart*, WIPO Case No. [D2021-4244](#). Previous UDRP panels have found typosquatting does not support a claim to a right or legitimate interest in a domain name. *Penningtons Manches Cooper LLP v. John Owens*, WIPO Case No. [D2021-4014](#).

The Complainant has rights in its trademark which precedes the Respondent's registration of the disputed domain names.

There is no evidence that the Respondent is commonly known by the disputed domain names or that the disputed domain names have been used in any legitimate way – to the contrary they are used for illegal activity.

The Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain names and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain names.

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain names. Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. Accordingly, the Panel finds that the Respondent has no rights or any legitimate interests in the disputed domain names.

D. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain names in bad faith.

The Panel is of the view that the Respondent was aware of the Complainant and the Complainant's trademark when the disputed domain names were registered. By registering the disputed domain names which are only one or two characters different to the Complainant's own mark and domain name, and then using the disputed domain names to send fraudulent emails to the Complainant's personnel, demonstrates that the Respondent specifically knew of and targeted the Complainant. *Akzo Nobel N.V., supra*.

Using a domain name for such email scams is evidence of bad faith registration and use. See, for example, *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#); *Wistrand Advokatbyrå Göteborg Kommanditbolag v. Privacy service provided by Withheld for Privacy ehf / Zhi Hao*, WIPO Case No. [D2021-2250](#); *Latham & Watkins LLP v. Registration Private, Domains By Proxy, LLC / Barbara Jason*, WIPO Case No. [D2021-2238](#); and *KWM Brands Pte Limited, King & Wood Mallesons v. Whois Agent, Whols Privacy Protection Service Inc. / Name Redacted*, WIPO Case No. [D2017-1721](#).

The current inactive status of the disputed domain names – at least as far as website content (versus email use) goes – does not prevent a finding of bad faith, given the Respondent's failure to participate in this proceeding and the lack of any credible good-faith explanation to which the typosquatting disputed domain names could be put. See section 3.3. of the [WIPO Overview 3.0](#).

The Complainant succeeds on 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 names <insuredaircraft.com>, <insuredaircraft.com>, <insuredairrcraft.com>, <insuredlaircraft.com>, <insuresdaircraft.com>, and <insurredaircraft.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: August 10, 2022