

ADMINISTRATIVE PANEL DECISION

SonicWall, Inc. v. Christopher Judge
Case No. D2023-2646

1. The Parties

Complainant is SonicWall, Inc., United States of America (“U.S.”), represented by SafeNames Ltd., United Kingdom (“U.K.”).

Respondent is Christopher Judge, U.S.

2. The Domain Name and Registrar

The disputed domain name <appsonicwall.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2023. 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 June 20, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complainant. The Center sent an email communication to Complainant on June 21, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 22, 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 Respondent of the Complaint, and the proceedings commenced on June 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 17, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on July 19, 2023. 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

Complainant is a multinational company based in the U.S. For over a decade prior to the registration of the disputed domain name, Complainant has offered technology-related goods and services under its SONIC WALL mark. Complainant owns numerous registrations for the SONIC WALL mark. These include, among others, U.S. Registration No. 3219615 (registered March 20, 2007), and European Union Registration No. 001409424 (registered October 23, 2001).

In addition, Complainant owns the registration for the domain name <sonicwall.com>, which Complainant uses to provide information about products offered under its SONIC WALL mark.

The disputed domain name was registered on February 21, 2023. The disputed domain name resolved to a website that mimicked the official website of Complainant, including a display of the mark and logo used by Complainant on its own official website.

5. Parties' Contentions

A. Complainant

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it owns rights on the SONIC WALL mark for technology-related goods and services. Complainant contends that Respondent has incorporated Complainant's SONIC WALL mark into the disputed domain name, and merely added the term "app," which consumers will likely understand as a means of location an online application or portal to access Complainant's SONIC WALL products.

Complainant asserts that Respondent has no rights or legitimate interest in the domain name registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in setting up a website meant to impersonate Complainant, and to confuse consumers seeking or expecting to reach the Complainant's service offerings. Complainant contends that the disputed domain name advertises Complainant's software and offers Internet users the ability to download said software, potentially exposing unsuspecting Internet users to malicious software, which is *prima facie* bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates Complainant's registered SONIC WALL mark, with the addition of the term "app."

Numerous UDRP panels have agreed that the addition of a term or terms to a trademark does not prevent a finding of confusing similarity for purposes of paragraph 4(a)(i) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services;" (ii) demonstration that Respondent has been "commonly known by the domain name;" or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

Respondent did not submit a reply to Complainant's contentions, and Respondent did not allege or otherwise provide any information that would support a finding that Respondent has rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

Further, even where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, not only does the construction of the disputed domain name suggest an inference of association to Complainant, but such association is clearly the intent of Respondent when one considers the impersonating nature of the content found at the website to which the disputed domain name resolves. Lastly, given Complainant's claims concerning the potential distribution of malware via the disputed domain name, the Panel notes that the use of a domain name for illegal activity would never confer rights or legitimate interests upon a respondent. See [WIPO Overview 3.0](#), section 2.13.

The Panel therefore finds that Respondent has no rights or legitimate interests in the disputed domain name and paragraph 4(a)(ii) of the Policy has been established.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's

mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location." As noted in Section 4 of this Panel's decision, Respondent has used the disputed domain name to resolve to a website that appears to mimic an official website of Complainant, and inviting prospective consumers to download software advertised under Complainant's mark and logo, potentially infecting unsuspecting Internet users with malware. Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users for malicious purposes and Respondent's personal gain, which is *prima facie* evidence of bad faith.

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iv) of the Policy.

7. Decision

For all 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 <appsonicwall.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: August 2, 2023