

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-3956

1. The Parties

The Complainant is Asurion, LLC, United States of America, represented by Adams and Reese LLP, United States of America (“US”).

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain names <asurionsaetup.com>, and <asurionsetrup.com> (the “Domain Names”) are 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 21, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On September 25, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 2023, 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 September 28, 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 the Respondent of the Complaint, and the proceedings commenced on October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 26, 2023.

The Center appointed Gregor Vos as the sole panelist in this matter on November 1, 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

The Complainant is a company active since at least 1994 in the field of *inter alia* insurance services, mobile phone replacement services, technical support services and other related products and services. The Complainant has provided its services to more than 280 million consumers worldwide and has numerous locations worldwide. The website of the Complainant accessible through the domain name <asurion.com> is visited by over 7.9 million Internet users annually. The Complainant also operates <asurionsetup.com>.

The Complainant is the owner of *inter alia* the following trademark registrations (the "Trademarks"):

- US Trade Mark registration No. 2698459 for the sign ASURION, registered on March 18, 2003; and
- US Trade Mark registration No. 6010609 for the sign ASURION, registered on March 17, 2020.

The Domain Names were registered on February 13, 2023 and at the time of filing the Complaint, the Domain Names resolved to pay-per-click ("PPC") websites displaying links related to the Complainant's services, and were listed for sale at online platform.

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Names are transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Names are identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Names and the Domain Names have been registered and are being used in bad faith.

Firstly, the Domain Names are identical or confusingly similar to its Trademarks that enjoy a reputation. The Domain Names fully incorporate the Complainant's Trademarks with the mere addition of common misspellings of the word "setup". This could cause Internet users to believe that the Domain Names are registered by the Complainant, which is reinforced by the fact that the Complainant in fact operates a website under the domain name <asurionsetup.com>.

Secondly, the Respondent has no rights or legitimate interests in the Domain Names. The Complainant is not affiliated with the Respondent and has never authorized the Respondent to register or use the Domain Names. Also, the Respondent would not be commonly known under the names "asurionsetrup" or "asurionsaetup" respectively. At the time of filing the initial Complaint, the Domain Names resolved to parking websites showing PPC links referring to services related to those of the Complainant and at the time of filing the Amended Complaint, the Domain Names resolved to websites used to distribute malware. This use of the Domain Names would not constitute a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy nor a legitimate noncommercial of fair use pursuant to paragraph 4(c)(iii) of the Policy.

Finally, the Respondent registered and uses the Domain Names in bad faith. The Complainant submits that the Respondent was aware of the reputation of the Complainant's business under its Trademarks at the time the Domain Names were registered and that it is implausible that the Respondent did not have the Complainant's business in mind at the time the Domain Names were registered. According to the Complainant, this is confirmed by the Respondent's choice of slight variations of the Complainant's domain name <asurionsetup.com>, which constitutes typosquatting. Further, the Respondent is using the Domain Names to divert Internet users to commercial parking pages with PPC links related to services offered under the Complainant's Trademark. The Respondent's apparent use of the Domain Names to distribute malware constitutes additional evidence of the Respondent's bad faith. Also, both Domain Names are currently offered for sale for an amount in excess of the out-of-pocket expenses which constitutes bad faith. Finally,

the Respondent has engaged in a pattern of bad faith registration with several earlier domain name complaints being filed against the Respondent by the Complainant.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

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

Only if all three elements have been fulfilled, the Panel is able to grant the remedies requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Names are (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Names with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Names (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Names. The mere addition of the terms "setrup" and "saetup" respectively does not prevent a finding of confusing similarity with the Trademarks (see section 1.8 of the [WIPO Overview 3.0](#); *Yahoo! Inc. v. Andy Perlaza*, WIPO Case No. [D2017-0869](#)).

Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Names. The onus of proving this requirement, like each element, falls on the

Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three nonlimitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to address the *prima facie* case thus established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must show that the Domain Names have been registered and are being used in bad faith. Paragraph 4(b) of the Policy lists four nonlimitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Names. In light of the reputation that the Trademarks of the Complainant enjoy, the fact that the Domain Names incorporate the Trademarks in their entirety and the fact that the Domain Names are misspelled versions of the Complainant's domain name <asurionsetup.com>, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Names without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business. The reputation of the Complainant's Trademarks has been confirmed in earlier UDRP panel decision (see, e.g., *Asurion, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues Fundacion Comercio Electronico*, WIPO Case No. [D2019-2999](#); *Asurion, LLC v. Cindy Willis*, WIPO Case No. [D2018-2643](#)).

Further, the Panel has found that the Respondent lacks any rights to or legitimate interests in the Domain Names and finds that the Respondent is taking unfair advantage of the Domain Names by diverting Internet users to a website that includes PPC links of a commercial nature that compete with the Complainant's activities. Furthermore, the Domain Names were listed for sale at online platform. Therefore, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation, or endorsement (see, e.g., *"Dr. Martens" International Trading GmbH / "Dr. Maertens" Marketing GmbH v. Joan Mitchell*, WIPO Case No. [D2018-0226](#)).

Finally, the Respondent has engaged in a pattern of bad faith conduct and has been engaged in multiple domain name cases filed by the Complainant relating to trademarks for the sign ASURION (see section 3.1.2 of the [WIPO Overview 3.0](#); *Asurion, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues Fundacion Comercio Electronico*, WIPO Case No. [D2019-2999](#); *Asurion, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1650](#); *Asurion, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-0211](#)).

Accordingly, the Panel finds that the Domain Names have been registered and are being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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 Domain Names, <asurionsaetup.com> and <asurionsetrup.com>, be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: November 20, 2023