

ADMINISTRATIVE PANEL DECISION

Aspen Insurance Holdings Limited v. Bukayo Ajiboye
Case No. D2023-0669

1. The Parties

The Complainant is Aspen Insurance Holdings Limited, Bermuda, Overseas Territory of the United Kingdom of Great Britain and Northern Ireland (“Bermuda”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Bukayo Ajiboye, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <aspeninsurancecompany.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 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 the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed José Ignacio San Martín Santamaría as the sole panelist in this matter on March 15, 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 Aspen Insurance Holdings Limited is the proprietor of multiple trademark registrations for class 36 services, *inter alia*:

- Australian trademark Registration No. 1214468 ASPEN INSURANCE, registered on February 9, 2011;
- Australian trademark Registration No. 1499572 ASPEN INSURANCE (fig), registered on July 10, 2013;
- European Union Trade Mark Registration No. 010998111 ASPEN INSURANCE (fig), registered on November 5, 2012;
- United Kingdom Trade Mark Registration No. UK00910998136 ASPEN INSURANCE (fig), registered on November 5, 2012;
- European Union trademark Registration No. 002833234 ASPEN, registered on February 14, 2006;
- United States of America ("U.S.") trademark Registration No. 6193110 ASPEN, registered on November 10, 2020;
- Canadian trademark Registration No. TMA1075616 ASPEN, registered on March 20, 2020.

The disputed domain name was registered on May 10, 2022. The disputed domain name resolved to a website that was purposely designed to serve as a replica of Complainant's website, offering services under the mark ASPEN, and has been used to send phishing emails to the Complainant's customers, requesting personal and confidential information.

The disputed domain name currently does not resolve to any active webpage.

5. Parties' Contentions

A. Complainant

- The Complainant Aspen Insurance Holdings Limited was incorporated on May 23, 2002, as a holding company headquartered in Bermuda. The Complainant underwrites specialty insurance and reinsurance on a global basis through its Operating Subsidiaries based in Bermuda, the U.S. and the United Kingdom.
- The Complainant is the owner of the above mentioned trademark registrations for ASPEN INSURANCE and ASPEN.
- The disputed domain name captures the Complainant's ASPEN INSURANCE trademark and simply adds the term "company" to the end of the trademark. It is therefore confusingly similar to the Complainant's trademark.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names.
- The Complainant's representatives successfully performed a takedown of the website previously reachable through the disputed domain name. This website copied and attempted to duplicate the Complainant's official website.
- The Respondent has also sent phishing emails in which it sought to impersonate the Complainant, encouraging unsuspecting users to fill in a fraudulent beneficiary form.
- By registering a domain name that incorporates the Complainant's ASPEN INSURANCE trademark in its entirety, with the mere addition of the term "company", the Respondent has created a domain name

that is confusingly similar to the Complainant's trademark and its <aspen.co> domain name. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. More importantly, the disputed domain name was previously connected to a website where the Respondent sought to impersonate the Complainant and has been used to send phishing emails to the Complainant's customers, requesting personal and confidential information. The fishing attack is evidence of bad faith use.

As a consequence, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel shall grant the remedies requested if the Complainant proves that:

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

Pursuant to paragraph 4(a) of the Policy and 15 of the Rules, for this purpose the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

The Complainant has proved its rights for its trademark ASPEN INSURANCE. The disputed domain name wholly incorporates the Complainant's trademark ASPEN INSURANCE merely adding the term "company". The ASPEN INSURANCE trademark is clearly recognizable within the disputed domain name.

As stated in *Crédit Industriel et Commercial v. Manager Builder, Builder Manager*, WIPO Case No. [D2018-2230](#):

"The disputed domain name incorporates the CIC trademark in its entirety. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark (see *e.g.*, *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.)* and *EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)). Moreover, it has been held in many UDRP decisions and has become a consensus view among UDRP panelists (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (['WIPO Overview 3.0'](#), section 1.8), that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term 'banks', which even is the English translation of the French term 'banques' as it is reflected in the Complainant's CIC BANQUES trademark, does not avoid the confusing similarity arising from the incorporation of the Complainant's CIC trademark in the disputed domain name."

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's trademarks as provided under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established based on the facts set out above a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Having done so, the burden of production shifts to the Respondent to come forward with appropriate evidence demonstrating rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.1). Given that the Respondent has defaulted, he or she has not met that burden.

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a 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.

The Respondent's use cannot be considered as a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. 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 (see [WIPO Overview 3.0](#), section 2.13). In this case, the Complainant has demonstrated that the disputed domain names was used for illicit purposes, namely, for sending fraudulent email communications, and for making available a website that offered the Complainant's services under the ASPEN INSURANCE trademark.

Consequently, the second requirement under paragraph 4(a)(ii) of the Policy is also met.

C. Registered and Used in Bad Faith

According to paragraph 4(b)(iv) of the Policy, registration or use of a domain name will be considered in bad faith when:

"by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Respondent's registration and use of the disputed domain name wholly incorporating a well-known mark is, in the Panel's view, indicative of bad faith. In fact, the addition of the word "company" to the disputed domain name shows the Respondent's intent to impersonate the Complainant.

As mentioned in *Andrey Ternovskiy dba Chatroulette v. Alexander Ochkin*, WIPO Case No. [D2017-0334](#):

"It is clear in the Panel's view that in the mind of an Internet user, the disputed domain names could be directly associated with the Complainant's trademark, which is likely to be confusing to the public as suggesting either an operation of the Complainant or one associated with or endorsed by it (see *AT&T Corp. v. Amjad Kausar*, WIPO Case No. [D2003-0327](#))."

The Complainant has submitted evidence that the website formerly hosted by the disputed domain name was a reproduction of the Complainant's official website and that it was used to send fraudulent emails.

As reminded in section 3.1.4 of the [WIPO Overview 3.0](#):

“As noted in section 2.13.1, 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.”

In the light of the above, the Panel finds that the Complainant has established registration and use of the disputed domain name in bad faith and concludes that paragraph 4(a)(iii) of the Policy is satisfied.

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 <aspeninsurancecompany.com> be transferred to the Complainant.

/José Ignacio San Martín Santamaría/

José Ignacio San Martín Santamaría

Sole Panelist

Date: March 28, 2023