

## **ADMINISTRATIVE PANEL DECISION**

Sawnee EMC v. faris ALMALKI

Case No. D2024-2087

### **1. The Parties**

The Complainant is Sawnee EMC, United States of America (“United States”), represented by ZeroFox, United States.

The Respondent is faris ALMALKI, Saudi Arabia.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 17, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 2024, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 2024, 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 amendment to the Complaint on May 30, 2024.

The Center verified that the Complaint together with the amendment to 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 May 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Respondent sent an email communication to the Center on May 30, 2024. On June 24, 2024, the Center notified the Parties that it will proceed to Panel appointment.

The Center appointed Assen Alexiev as the sole panelist in this matter on June 28, 2024. 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 was founded in 1938 and is the eighth-largest electrical distribution cooperative in the United States, operating about 12,000 miles of distribution lines in seven counties.

The Complainant is the owner of the United States trademark SAWNEE with registration No. 2262580, registered on July 20, 1999, for services in International Class 39 (the "SAWNEE trademark").

The disputed domain name was registered on February 2, 1996, by the Complainant. Until recently, it was used for the Complainant's official website. According to the Complainant's affidavit, on April 29, 2024, ownership of the disputed domain name was transferred from the Complainant. The disputed domain name resolved to a website displaying a telephone number with a message encouraging Internet users to contact the "domain management" via the communication application WhatsApp.

On May 4, 2024, the Respondent offered to sell the disputed domain name to the Complainant for USD 15,000.

At the time of the notification of the Complaint the disputed domain name resolved to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that the disputed domain name is confusingly similar to its SAWNEE trademark, because it wholly incorporates the trademark.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, which was maliciously transferred to it on April 29, 2024. The Complainant submits that it has not authorized the use of the SAWNEE trademark by the Respondent and the transfer of the disputed domain name, and maintains that the disputed domain name has not been used for a bona fide offering of goods or services by the Respondent, and is currently inactive.

The Complainant notes that after the disputed domain name was hijacked, the Respondent pretended that it was not associated with the hijacker and that it had acquired the disputed domain name through an auction. However, the Complainant points out, immediately after making this claim, the Respondent pressed the Complainant for a large sum of money, USD 15,000, and showed internal email messages of the Complainant which the Respondent could only have access to if it was the hijacker of the disputed domain name or was associated with the same hijacker. According to the Complainant, the fact that the Respondent reached out directly to the Complainant with an offer and pressed it to make a quick decision indicates that it was fully aware of the Complainant and its trademark and of the urgency that the hijacking of the disputed domain name had caused to the Complainant.

The Complainant contends that the disputed domain name was acquired by the Respondent and is being used in bad faith. According to the Complainant, the Respondent hacked the Complainant's account and illegally transferred the disputed domain name to the Respondent with an intent to either sell it for a profit or

to ransom it back to the Complainant for a large sum of money. The Complainant adds that the Respondent used the Complainant's account not only to transfer the ownership of the disputed domain name, but also to transfer from the Complainant's primary registrar Network Solutions to the Registrar and to change the access details to lock the Complainant out of its own account. The Complainant points out that the Respondent then threatened to auction the disputed domain name to a third party if the sum asked for was not paid immediately. The Complainant submits that its customers have been impacted severely because the Respondent's actions caused the disruption of its billing portal at the disputed domain name and cut them off from important updates regarding the electricity of their homes and businesses.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. With its informal communication to the Center of May 30, 2024, the Respondent only asked "What are you trying to do?"

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of the SAWNEE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the SAWNEE trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the SAWNEE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Here, the Complainant submits that its account with the then registrar of the disputed domain name was hacked and that the disputed domain name was illegally transferred to the Respondent without the consent of the Complainant. The Respondent then approached the Complainant and demanded the amount of USD 15,000 for the transfer of the disputed domain name back to the Complainant. These factual allegations are supported by an affidavit issued by an employee of the Complainant and by printouts of the communication exchanges between the same employee and the Respondent. The Respondent does not dispute the contentions of the Complainant or the evidence submitted by it; the Respondent does not provide any evidence that it has legitimately acquired the disputed domain name.

Considering the above, the Panel concludes that the Complainant's prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name has not been rebutted. Therefore, the Panel finds that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

As discussed in section 6.B above, the Complainant submits that the Respondent illegally transferred the disputed domain name to itself by hacking the Complainant's account with the then registrar of the disputed domain name, and then approached the Complainant with a demand for payment of USD 15,000 for its return to the Complainant. These allegations are supported by evidence and have not been disputed by the Respondent, which has not provided any plausible explanation or evidence as to how and why it acquired the disputed domain name and why its actions should be regarded as legitimate. In the Panel's view, the above supports a conclusion that the Respondent more likely than not illegally acquired the control over the disputed domain name, targeting the Complainant in an attempt to receive financial gain by selling it back to the Complainant.

Taking all the above into account, the Panel finds that the Complainant has established 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 name <sawnee.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: July 8, 2024