

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. ricardo dewey
Case No. D2023-3989

1. The Parties

Complainant is Asurion, LLC, United States of America ("United States"), represented by Adams and Reese LLP, United States.

Respondent is ricardo dewey, United States.

2. The Domain Name and Registrar

The disputed domain name <techasurion.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 September 22, 2023. On September 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on September 27, 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 September 29, 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 October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on October 27, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on November 14, 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 privately held company based in Nashville, Tennessee which operates internationally, offering insurance, technology, mobile phone replacement, configuration, technical support, IT consultation, and related products and services. Complainant owns many registrations worldwide for its ASURION trademarks, including for example United States Trademark Registration No. 2698459, registered March 18, 2003 (service mark), with a first use in commerce date of March 12, 2001.

The disputed domain name was registered February 26, 2023, and resolves to a parking page containing pay-per-click ("PPC") advertising links to insurance and mobile-phone-related services.

5. Parties' Contentions

A. Complainant

Complainant avers that it has been active since at least 1994 and has used the ASURION marks since 2001. Complainant avers that it advertises and sells its products and services through its "www.asurion.com" website and related websites, as well as through other advertising and promotional campaigns. Complainant alleges that it has served over 280 million consumers worldwide and that its services are available through major retailers worldwide. Complainant avers that it has fourteen locations in North and South America, two in Europe, two in Australia, and ten in Asia.

Complainant avers that the disputed domain name is used to display PPC links offering services identical or related to services offered by Complainant under the ASURION marks. Complainant also submits evidence that the disputed domain name is configured to establish mail exchange ("MX") records to support its usage for email services; Complainant contends that those email services are likely to be used by Respondent for misleading and unlawful purposes

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and used in bad faith, all in violation of the Policy.

Complainant avers that on March 21, 2023, it sent a message to Respondent via the Registrar indicating that the disputed domain name infringed Complainant's rights, to which no response has been received.

On this basis, Complainant seeks transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To prevail under the Policy, Complainant must establish that (1) the disputed domain name is identical or confusingly similar to Complainant's ASURION trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and used in bad faith. Policy, paragraph 4(a).

The fact that Respondent has not provided any Response does not, by itself, mean that Complainant prevails. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, however, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegations that the disputed domain name is confusingly similar to Complainant's ASURION marks.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or similar to a complainant's marks. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the ".com" TLD from the disputed domain name, the Panel notes that the entire ASURION mark is included, adding only the term "tech". The Panel finds that this addition to Complainant's trademarks does not prevent a finding of confusing similarity. See, e.g., [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar); [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.").

The Panel therefore concludes that the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of production of evidence passes to the respondent. See, e.g., [WIPO Overview 3.0](#), section 2.1. The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. See *id.*

Complainant avers that Respondent is not affiliated with Complainant, has no authorization to use Complainant's trademarks, and that Respondent is not commonly known by the disputed domain name. The Panel accepts these undisputed allegations.

The record shows that the PPC advertising links on the webpage to which the disputed domain name points directs Internet users to third-party commercial products in competition with products and services offered by Complainant under its marks. The Panel agrees with Complainant that it is reasonable to conclude that Respondent is receiving revenue from the use of the advertising links, and the Panel therefore finds that there is no *bona fide* use.¹

¹ Even if the offerings via the website to which the disputed domain name routes were related to genuine services of Complainant, the website would not qualify for fair use since the website misleads Internet users by failing to disclose its lack of a relationship with Complainant, the trademark owner. E.g., *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), sections 2.5 and 2.8.

In the circumstances of this case (including the use of a domain name which incorporates and is confusingly similar to Complainant's trademarks), the display of PPC advertising links on the website to which the disputed domain name routes also precludes the possibility that Respondent is making a legitimate noncommercial or fair use. See e.g., [WIPO Overview 3.0](#), section 2.9.

The Panel rules that Complainant has established a *prima facie* case. Refraining from submitting a response, Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that Respondent has rights or legitimate interests in respect of the disputed domain name.

Therefore, the Panel concludes that the second element of paragraph 4(a) of the Policy is established.

C. Registered and Used in Bad Faith

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established.

The record shows that Respondent registered the disputed domain name long after Complainant perfected and registered its trademark rights in the United States, Respondent's location. Under these circumstances, the Panel finds that a presumption of bad faith is created by Respondent's mere registration of a domain name which is confusingly similar to Complainant's well-known ASURION marks. [WIPO Overview 3.0](#), section 3.1.4.

Respondent has submitted no evidence to contradict this presumption. The Panel holds therefore that Respondent registered the disputed domain name in bad faith.

The terms used to make up the disputed domain name, and its use to direct users to a website with PPC links to commercial offerings of the types of products also offered by Complainant, makes obvious that Respondent targeted Complainant's business under the ASURION trademarks. The Panel finds that Respondent deliberately attempted to attract Internet users to redirect traffic to commercial websites for commercial gain, by creating a likelihood of confusion with Complainant's marks. This is evidence of bad faith registration and bad faith use. Policy, paragraph 4(b)(iv); e.g., *Pfizer Inc. v. jg a/k/a Josh Green*, WIPO Case No. [D2004-0784](#); *DaimlerChrysler Corporation and DaimlerChrysler Services North America LLC v. LaPorte Holdings, Inc.*, WIPO Case No. [D2005-0070](#).

The Panel finds that the following circumstances also evidence Respondent's use in bad faith: (1) Respondent's DNS configuration of the disputed domain name for use with email; (2) the use of PPC links to areas that correspond to and compete with Complainant's business activities; (3) Respondent's failure to reply to Complainant's message that Respondent was infringing Complainant's rights; and (4) Respondent's failure to reply to the Complaint in this proceeding. See e.g., [WIPO Overview 3.0](#), sections 3.3 and 3.2.1.

The Panel holds therefore that Respondent registered and uses the disputed domain name in bad faith, thus establishing the third element under Paragraph 4(a) 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 <techasurion.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: November 28, 2023