

## **ADMINISTRATIVE PANEL DECISION**

American Heart Association, Inc. v. David Moorer, Bollinger Motors  
Case No. D2024-4747

### **1. The Parties**

Complainant is American Heart Association, Inc., United States of America (“U.S.” or “United States”), represented by Scheef & Stone, LLP, United States.

Respondent is David Moorer, Bollinger Motors, United States.

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

The disputed domain name <americanheartassociations.org> (the “Domain Name”) is registered with HOSTINGER operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 19, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 21, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on November 22, 2024, 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 November 27, 2024.

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 November 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 19, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on December 30, 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**

Complainant is an organization promoting awareness of, providing educational conferences and resources for consumers, and funding and promoting research related to cardiovascular health. Relevant to this matter, Complainant owns several registered trademarks including:

- AMERICAN HEART ASSOCIATION, U.S. Registration No. 1091140, registered May 9, 1978, in International Class 42;
- AMERICAN HEART ASSOCIATION (and design), U.S. Registration No. 2072127, registered June 17, 1997, in International Class 9, 16, 36, 41 and 42;
- AMERICAN HEART ASSOCIATION, U.S. Registration No. 7368437, registered April 23, 2024, in International Class 9, 14, 16, 25, 35, 36, 41, 42, and 44.

Collectively, these registered trademark rights are referred to as the "AMERICAN HEART ASSOCIATION Mark".

The Domain Name was registered on August 7, 2024. The Domain Name has been used to send emails claiming to be Complainant's employees in an attempt to order laptop computers.

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

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

With respect to the first element of the Policy, Complainant asserts that it has used the AMERICAN HEART ASSOCIATION Mark since 1924 and has registered trademark rights dating back to 1978. The Domain Name incorporates Complainant's mark in its entirety with only the addition of the letter "s", making it confusingly similar.

With respect to the second element of the Policy, Complainant alleges that Respondent has no rights or legitimate interests in the Domain Name. Complainant has not authorized Respondent to use its marks. Moreover, Respondent is using the Domain Name as part of a fraudulent scheme to impersonate Complainant's employees and place unauthorized orders for laptop computers.

With respect to the third element of the Policy, Complainant asserts bad faith registration and use based on Respondent's fraudulent scheme. Specifically, Respondent has used email addresses associated with the Domain Name to impersonate actual Complainant employees in attempts to fraudulently order large quantities of laptop computers from technology suppliers. As evidenced in Annex 8 of the Complaint, Respondent sent emails to a computer and technology supply business, using the email address consisting of the Domain Name and attempted to order 193 laptop computers while impersonating a legitimate American Heart Association employee. Similarly, Annex 9 of the Complaint, shows Respondent used the Domain Name to send fraudulent emails to another computer and technology supplier, impersonating other American Heart Association employees to attempt unauthorized computer orders.

## B. Respondent

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4(a) of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows.

### 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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2. Here, the Panel finds that Complainant has established trademark rights in the AMERICAN HEART ASSOCIATION Mark through its trademark registrations, as well as common law rights through continuous use since 1924.

The Domain Name incorporates Complainant's AMERICAN HEART ASSOCIATION mark in its entirety, with only the addition of the letter "s". The addition of the letter "s" does not distinguish the Domain Name from the AMERICAN HEART ASSOCIATION Mark and is a common form of typosquatting. See *ESH Strategies Branding, LLC v. Kumpol Sawaengkarn*, WIPO Case No. [D2011-0843](#) (the addition or subtraction of the letter "s" from a name is a common mistake Internet users make, and therefore, constitutes typosquatting).

Therefore, the Panel concludes that the Domain Name is confusingly similar to Complainant's mark, and Complainant has satisfied the first element of the Policy.

### B. Rights or Legitimate Interests

Complainant must make a prima facie case that Respondent lacks rights or legitimate interests in the Domain Names, after which the burden of production shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests. See section 2.1 of the [WIPO Overview 3.0](#).

In the present case, Complainant has established that it has not licensed or otherwise authorized Respondent to use its marks. There is no evidence that Respondent has been commonly known by the Domain Name or that Respondent has acquired any trademark rights in it. Having reviewed the available

record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy<sup>1</sup> or otherwise.

Moreover, the Panel finds that using the Domain Name for fraudulent email communications impersonating Complainant's employees cannot constitute rights or legitimate interests. As stated in section 2.13.1 of the [WIPO Overview 3.0](#), using a domain name for illegal activity (including phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See *Startup Group v. Whois Agent, Domain Protection Services, Inc. / Dominique Geffroy*, WIPO Case No. [D2020-3303](#) (finding an employment offer scam to be an example of use of a domain name for the illegitimate purpose of impersonating the complainant in the furtherance of a fraudulent scheme).

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

The Panel finds that the Domain Name was registered in bad faith. The evidence demonstrates that Respondent registered the Domain Name on August 7, 2024 - nearly 50 years after Complainant's first trademark registration and 100 years after Complainant began using its mark. Given the well-known nature and distinctiveness of the AMERICAN HEART ASSOCIATION Mark and Complainant's status as a worldwide leader in cardiovascular health, it is implausible that Respondent was unaware of Complainant's rights when registering the Domain Name.

The evidence further demonstrates that Respondent was targeting Complainant by using the Domain Name as part of a fraudulent scheme. Specifically, as shown in Annex 8 of the Complaint, on September 12, 2024, Respondent sent emails to a computer and technology supply business, using the Domain Name to attempt to fraudulently order 193 laptop computers. The emails impersonated a legitimate American Heart Association employee and made unauthorized use of Complainant's marks.

Similarly, Annex 9 of the Complaint shows that Respondent used email addresses associated with the Domain Name to contact another supplier while impersonating other American Heart Association employees, in attempts to place unauthorized orders for computer equipment. The fraudulent emails used real names, accurate addresses, and website information to attempt to deceive the recipients into believing they were communicating with actual American Heart Association employees.

As stated in section 3.4 of the [WIPO Overview 3.0](#), the use of a domain name for illegal activity (including impersonation, passing off, or other types of fraud) manifestly constitutes bad faith. The Panel finds particularly relevant that Respondent has used several email addresses incorporating the names of actual American Heart Association employees, demonstrating clear knowledge of Complainant's operations and an intent to deceive. Such use of the Domain Name to conduct fraud constitutes a disruption of Complainant's business and also establishes bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy.

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<sup>1</sup> The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: "(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are 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."

*Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (Finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.)

The Panel holds that Complainant has met its burden under paragraph 4(a)(iii) of the Policy and has established that Respondent registered and is using the Domain Name in bad faith.

## **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 Name, <americanheartassociations.org>, be transferred to Complainant.

*/John C McElwaine/*

**John C McElwaine**

Sole Panelist

Date: January 10, 2025