

## **ADMINISTRATIVE PANEL DECISION**

InnerSloth LLC v. ZHANG HAO

Case No. D2024-4908

### **1. The Parties**

The Complainant is InnerSloth LLC, United States of America ("United States"), represented by Rothman IP, United States.

The Respondent is ZHANG HAO, United States.

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

The disputed domain name <amongus3d.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 November 27, 2024. On November 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 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 amended Complaint on December 2, 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 the Respondent of the Complaint, and the proceedings commenced on December 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 27, 2025.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on January 6, 2025. 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 computer game developer founded in 2015 in the United States. It has created a multiplayer space-themed game called “Among Us,” released in 2018. It is the proprietor of several trademark registrations, including the following:

- European Union Trademark Registration No. 018384304 for AMONG US (word mark), registered on June 24, 2021 for goods and services in classes 9, 14, 16, 18, 25, 28, 35, and 41;
- European Union Trademark Registration No. 018384099 for  (device mark), registered on June 24, 2021 for goods and services in classes 9, 14, 16, 18, 25, 28, 35, and 41;
- United States Trademark Registration No. 6891716 for AMONG US (word mark), registered on November 8, 2022 for services in class 41, claiming first use in 2018.

The disputed domain name was registered on February 14, 2022. At the time of the Complaint and of this Decision, it resolved to a website stating “Among Us 3D. Join your crewmates in a multiplayer game” and featuring links to social media sites and links to the Apple Store and Google Play application download sites. The website displays cartoon characters in a space theme.

#### **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.

Notably, the Complainant contends that its “Among Us” game has been a commercial success, having reached 300 million active downloads by 2020. The game features an astronaut-shaped “Crewmate” and involves a crew on a spaceship trying to complete tasks together. The disputed domain name reflects the Complainant’s mark in its entirety with the descriptive term “3d.” The Respondent’s website features the Complainant’s AMONG US word and device marks and displays slightly modified “crewmate” characters. The links on the site redirect users to a competing computer game called “Super Sus.” The Respondent is not authorized by the Complainant to use its marks. The Respondent is attempting to impersonate the Complainant by displaying its marks and modified versions of its computer game characters.

The Complainant requests transfer of the disputed domain name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

#### **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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant’s AMONG US mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “3d”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

There is no evidence that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent’s rights therein. The disputed domain name consists of the Complainant’s registered AMONG US mark, adding “3d,” referring to the nature of the Complainant’s computer game. The Panel finds that such composition indicates targeting of the Complainant.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

This finding is further reinforced by the fact that the website offers links leading visitors to an entirely different computer game unrelated to and competing with the “Among Us” game. The Panel is satisfied that such redirection has been created with the intention of misleading Internet users. Such use cannot confer rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.3.

The Panel finds 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.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark. The Complainant’s rights in its AMONG US mark predate by several years the registration of the disputed domain name. The disputed domain name contains the Complainant’s AMONG US trademark and, together with the use to which the disputed domain name has been put, clearly implies a link with the Complainant’s business.

The record indicates that the Respondent’s website displays the Complainant’s device mark and cartoon characters resembling those depicted in the Complainant’s “Among Us” computer game. Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <amongus3d.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa /*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: January 20, 2024