

ADMINISTRATIVE PANEL DECISION

Arista Networks Inc. v. Muller Silas

Case No. D2024-5140

1. The Parties

The Complainant is Arista Networks Inc., United States of America ("USA"), represented by 101domain.com, USA.

The Respondent is Muller Silas, Germany.

2. The Domain Name and Registrar

The disputed domain name <arlsta.com> is registered with Hetzner Online GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 13, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 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 (Information not available in Whois.) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 17, 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 20, 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 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 12, 2025. The Respondent did not submit any response. Accordingly, the

Center notified the Respondent's default on January 14, 2025.

The Center appointed Ian Blackshaw as the sole panelist in this matter on January 16, 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 was founded in 2004 and provides technological products and software solutions for monitoring and network detection and response worldwide, through their primary website, at "www.arista.com". The Complainant has over a dozen offices and delivers their computer networking services to Fortune 500 customers located across six continents.

The Complainant has been operating in the computer networking sector for nearly two decades, building worldwide brand recognition around their trademark ARISTA with an extensive range of network switches and operating system products distinctively promoted under this trademark.

The Complainant owns the following registrations for its ARISTA trademark:

- European Union Trademark Registration No. 008473721 for the mark ARISTA, registered on February 1, 2010, in classes 9 & 42; and
- USA Trademark Registration No. 4,893,674 for the mark ARISTA, registered on January 26, 2016, in classes 9, 41 & 42, with an official first use date in commerce in 2008.

The Complainant's primary website, at "www.arista.com", provides global access for online customers all over the world and maintains over one hundred domain names consisting of country code Top-Level Domain "ccTLD" and generic Top-Level Domain "gTLD" variations of the trademark ARISTA including <arista.cm>, <aristsa.com>, and <aristta.com>. The Complainant's domain name <arista.com> was registered on July 6, 1998.

The disputed domain name was registered on October 3, 2024. The disputed domain name resolves to an inactive website; however, it was used to send fraudulent emails.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant makes the following contentions.

The Complainant has consistently and consecutively used their ARISTA trademarks for over a decade prior to the recent registration of the disputed domain name. With their customer base spanning all over the world, the Respondent is actively seeking to create confusion in the online marketplace by switching the "i" in the Complainant's trademark ARISTA for an "l".

This typosquatting method is not only used to capitalize on notorious brand recognition but also demonstrates the Respondent's intention to confuse the Complainant's customers with an almost identical disputed domain

name to the Complainant's domain name <arista.com>.

Additionally, the Respondent was inappropriately contacting the Complainant's customers posing as a legitimate employee to request payment for an overdue invoice through "updated" banking information.

As mentioned above, the Complainant has been utilizing their ARISTA trademarks consistently and consecutively in the software and cloud networking industry since 2008. Therefore, the disputed domain name is confusingly similar to the Complainant's trademarks, as it contains almost the entirety of the Complainant's trademark ARISTA and directs customers to an unavailable website for deceptive purposes.

Thus, the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has not licensed nor allowed the Respondent to use the ARISTA trademarks for any purpose. The Complainant became aware of the Respondent's registration of the disputed domain name when a customer of the Complainant contacted them to report that a fraudulent user was spoofing the disputed domain name as <arista.com> to request payment for an "overdue invoice" through the provided banking information, on behalf of the Complainant, with the disputed domain name. The extent of this scam resulted in the Complainant's customer contacting the employee, whom the Respondent was impersonating to confirm the accuracy of these late payment notifications with "new" beneficiary banking information, evidence of which has been provided to the Panel.

The Complainant promptly filed an abuse complaint with the Registrar and MX record provider on October 7, 2024, providing the fraudulent correspondence and physical email headers, to request the suspension of the disputed domain name and revocation of email services.

The Complainant states that despite the Complainant providing the fraudulent correspondence and email header, both providers neglected to take action to stop the Respondent from continuing these attempts to defraud the Complainant's customers, evidence of which, again, has been provided to the Panel.

In an effort to prevent future abusive behavior with the disputed domain name, the Complainant commenced this dispute procedure and the rightful transfer of the disputed domain.

It is the Complainant's belief, in good faith, that the Respondent has not registered any ARISTA trademarks and has traded on the goodwill, that the Complainant has established under the ARISTA trademarks, for wrongful profit.

The Respondent does not appear to have any legitimate connection to the Complainant and the disputed domain name is solely being used to manipulate the Complainant's current customers and to prevent them from navigating to the Complainant's true domain name, <arista.com>.

The Respondent is not commonly known by the disputed domain name and registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant.

Neither is the Respondent making a legitimate noncommercial or fair use of the disputed domain name because it resolves to a "Service Unavailable" website and is primarily used to contact fraudulently the Complainant's customers through the email services of the disputed domain name. Again, evidence of this has been provided to the Panel.

The Complainant's trademarks have become well-known to characterize the Complainant's computer networking brand, as evidenced by their numerous registered <arista> domain names and global presence.

The Respondent has not provided any evidence of bona fide use of, or demonstratable preparations to use, the disputed domain name in connection with any legitimate offering of goods or services as the disputed domain name is solely being used to fabricate an association with the Complainant's employees and trademarked brand name.

The Complainant has not licensed nor allowed the Respondent to use the ARISTA trademarks for any purpose, The Complainant is unaware of any registered trademarks using the name "Arista" owned by the Respondent, and the disputed domain name was registered primarily for the purpose of deceiving customers, thereby tarnishing the reputation of the Complainant.

Thus, the Respondent is demonstrating a complete lack of legitimate interests or rights in the disputed domain name.

The disputed domain name was registered and is being used in bad faith.

The Respondent has fraudulently used the disputed domain name to confuse customers who associate the ARISTA brand and the "Arista Networks" corporate name by issuing false overdue payment notices and spoofing the Complainant's primary domain name of <arista.com>.

The Respondent's registration of the disputed domain name prevents the Complainant from reflecting their ARISTA trademarks in their corresponding domain name.

Since the registration of the disputed domain name, the Respondent has not used nor prepared to use it for any legitimate purpose and misuses the disputed domain name primarily for the purpose of disrupting the Complainant's business. By impersonating a legitimate employee of the Complainant's company, the Respondent was swindling the Complainant's customers through unauthorized communications and representation. The Respondent is using the confusingly similar disputed domain name to perpetuate spear-phishing campaigns amongst the Complainant's customers and to tarnish the Complainant's corporate reputation. This has led the Complainant to believe that the disputed domain name was registered and is being used in bad faith and for abusive purposes.

The Respondent is willfully using the almost identical and confusingly similar disputed domain name to prevent the Complainant from utilizing the ARISTA trademarks to reach customers that would otherwise search their corresponding domain name, as it has become notorious to represent the Complainant's company and technological products.

The disputed domain name is deliberately being used to create confusion with the Complainant's ARISTA trademarks and misleads customers into believing that the Complainant has outstanding invoices and requires payment collection, disrupting the Complainant's business by profiting from the Complainant's reputation and corporate relationships.

The Respondent's registration and inappropriate use of the disputed domain name intentionally distorts customers' perception of the Complainant and, given the Respondent's blatant knowledge of the Complainant's company and services, it is clear that the Respondent registered and is using the disputed domain name in bad faith.

A. Respondent

The Respondent, having been duly notified of the Complaint and of these proceedings, did not reply to the Complainant's contentions or take any part in these proceedings.

6. Discussion and Findings

To qualify for cancellation or transfer of the disputed domain name, the Complainant must prove each of the following elements of paragraph 4(a) of the Policy, namely:

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

(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.

In accordance with paragraph 15(a) of the Rules, 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.

In accordance with paragraph 14(a) of the Rules, in the event that a party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the Complaint; and under paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences as it considers appropriate.

In accordance with paragraph 10(d) of the Rules, the Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

In previous UDRP decisions in which the respondents failed to file a response, the panels' decisions were based upon the complainants' reasonable assertions and evidence, as well as inferences drawn from the respondents' failure to reply. See *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#); and also *Köstritzer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#).

Nevertheless, the Panel must not decide in the Complainant's favor solely based on the Respondent's default. See *Cortefiel, S.A. v. Miguel García Quintas*, WIPO Case No. [D2000-0140](#).

In the present case, the Panel must decide whether the Complainant has introduced elements of proof, which allow the Panel to conclude that its allegations are true.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.2.1.

It is well established in previous UDRP decisions that, where the trademark is recognizable within the disputed domain name, the disputed domain name is normally considered confusingly similar to that mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. See *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#).

In the present case, the Complainant's registered trademark ARISTA is recognizable within the disputed domain name and this makes the disputed domain name confusingly similar to the Complainant's trademark. The substitution of the letter "l" for the letter "i" in the disputed domain name does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9. See *Gannett Co, Inc. v. Henry Chan*, WIPO Case No. [D2004-0117](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's well-known and widely used ARISTA registered trademark, in which the Complainant has demonstrated, to the satisfaction of the Panel, prior rights in and prior commercial use.

The first element of the Policy, therefore, has been met.

B. Rights or Legitimate Interests

In order to determine whether the Respondent has any rights or legitimate interests in respect of the disputed domain name (paragraph 4(c) of the Policy), attention must be paid to any of the following circumstances, in particular, but without limitation:

- whether there is any evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services before any notice to the Respondent of the dispute;
- whether the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights;
- whether the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence before the Panel to show that the Respondent was acting in pursuance of any rights or legitimate interests with respect to the disputed domain name. On the contrary, if the Respondent had any such rights or legitimate interests, the Respondent would reasonably have been expected to assert them, which the Respondent clearly has not done so, by not replying to the Complaint or taking any part in these proceedings. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

There is also no evidence before the Panel that the Respondent has been authorized or licensed by the Complainant to use the Complainant's well-known and widely used ARISTA registered trademark. In fact, in the view of the Panel, the adoption by the Respondent of a domain name confusingly similar to the Complainant's well-known and widely used ARISTA registered trademark, which the Panel also considers would appear not to be by mere chance but by design, inevitably leads to confusion on the part of Internet users and consumers seeking information about the Complainant and its technological products.

Further, the Panel finds that the Respondent is consequentially trading unfairly on the Complainant's well-known and widely used ARISTA registered trademark and also the valuable goodwill that the Complainant has established in that trademark through the Complainant's prior commercial use, without any rights or justification for doing so.

Also, the Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with any bona fide offering of goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant has put forward a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent. Therefore, for all the above reasons, the Panel concludes that the Respondent has neither rights nor legitimate interests in the disputed domain name.

The second element of the Policy, therefore, has been met.

C. Registered and Used in Bad Faith

Regarding the bad faith requirement, paragraph 4(b) of the Policy lists four examples of acts, which constitute prima facie evidence of bad faith. However, this list is not exhaustive, but merely illustrative. See *Nova Banka v. Iris*, WIPO Case No. [D2003-0366](#).

Paragraph 4(b)(iv) of the Policy is particularly relevant to the present case and provides that there is evidence of bad faith in the following circumstances:

“(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [its] 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 [the respondent’s] website or location or of a product or service on [its] website or location.”

Based on the evidence provided on the record, the Panel considers that the Respondent, by registering the disputed domain name confusingly similar to the Complainant’s well-known and widely used ARISTA registered trademark, is trading unfairly on the Complainant’s valuable goodwill established in such trademark.

Also, the effect of such conduct on the part of the Respondent is to mislead Internet users and consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its business; or that the Respondent’s activities are approved or endorsed by the Complainant. None of which the Panel can find, on the basis of the evidence provided on the record, is, in fact, the situation. Such misleading consequences, in the view of the Panel, are indicative of bad faith on the part of the Respondent. See *Columbia Insurance Company v. Pampered Gourmet*, WIPO Case No. [D2004-0649](#).

Again, in the absence of any explanation to the contrary by the Respondent, of which none is forthcoming on the record, the Panel agrees with the Complainant’s contention that the Respondent did not register and use the disputed domain name in good faith; but, as noted above, the Respondent appears to have been – or, at least, should have been – fully aware of the notoriety of the Complainant and its business activity, as well as its well-known and widely used ARISTA registered trademark and its prior commercial use.

Furthermore, the Panel agrees that the fraudulent and spear-phishing activity of the Respondent, referred to and described above by the Complainant, is further evidence of bad faith on the part of the Respondent.

Also, the typosquatting, which appears to have occurred in the present case, is presumptive evidence of bad faith registration. See *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#).

Finally, the failure of the Respondent to answer the Complaint or take any part in the present proceedings, in the view of the Panel, is another indication of bad faith on the part of the Respondent in the circumstances of this case. See *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Therefore, taking all these particular facts and circumstances into account, and for all the above-mentioned reasons, as well as the arguments advanced by the Complainant in its contentions, as set out above, and based on the previous UDRP cases cited above, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

The third element of the Policy, therefore, has been met.

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 <arlsta.com> be transferred to the Complainant.

/Ian Blackshaw/

Ian Blackshaw

Sole Panelist

Date: January 19, 2025