

## **ADMINISTRATIVE PANEL DECISION**

### **Amazon Technologies, Inc. v. KG Enterprises Case No. DIO2023-0011**

#### **1. The Parties**

Complainant is Amazon Technologies, Inc., United States of America ("United States"), represented by Richard Law Group, United States.

Respondent is KG Enterprises, United States.

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

The disputed domain names <amzcoins.io> and <amznpresale.io> are registered with Eranet International Limited (the "Registrar").

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 29, 2023. On March 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 6, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on April 11, 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 April 11, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the "Policy"), the Rules for .IO Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for .IO 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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 30, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on June 9, 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 leading global retailer offering a wide variety of products and services. Complainant's services include Amazon Coins, a virtual currency, and Amazon credit card and payment services. Complainant's stock symbol on the New York Stock Exchange is AMZN and Complainant's stock symbol on the Frankfurt Stock Exchange is AMZ.

Complainant owns many registrations worldwide for its well-known family of AMAZON trademarks, including for example the mark AMAZON, United States Trademark Registration No. 2,078,496, registered on July 15, 1997. Complainant also owns registrations for its AMZN trademark, for example European Union Trademark Registration No. 007043888, registered on July 1, 2009; and for its AMZ trademark, for example United Kingdom Trademark Registration No. UK00003731802, registered on March 18, 2022.

The disputed domain names <amznpresale.io> and <amzcoins.io> were registered December 3, 2022 and February 7, 2023, respectively, and currently do not resolve to active webpages.

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

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

Complainant avers that the disputed domain names are being used to promote fake "Amazon" cryptocurrency schemes. Complainant includes in the amended Complaint images of the webpages to which the disputed domain names resolved at the time of filing the Complaint. The screen captures show that the disputed domain names resolved to nearly identical webpages that promote an "Amazon Crypto" and "AMZ" cryptocurrency scheme; that Complainant's Amazon logos are displayed in the favicon, masthead, and elsewhere; that copyright legends on the webpages attribute authorship to Complainant's parent entity; and that the webpages contained no disclaimers.

Complainant alleges that (1) the disputed domain names are confusingly similar to Complainant's registered AMAZON, AMZN and AMZ trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain names, and (3) the disputed domain names were registered and are being used in bad faith, all in violation of the Policy.

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

Respondent did not reply to Complainant's contentions.

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

The Panel notes that the .IO Domain Name Dispute Resolution Policy is substantially similar (though not identical) to the Uniform Domain Name Dispute Resolution Policy (the "UDRP"). Where appropriate, therefore, in this Decision, the Panel applies principles established in relation to the UDRP.

To prevail, Complainant must establish each element of paragraph 4(a) of the .IO Policy, namely:

- (i) the disputed domain names are 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 disputed domain names; and
- (iii) the disputed domain names have been registered or are being used in bad faith.

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#). In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. 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 allegation that the disputed domain names are confusingly similar to Complainant's registered marks.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is confusingly similar to a complainant's marks. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

When disputed domain names incorporate a complainant's entire trademark, UDRP panels will normally consider the domain names to be confusingly similar. *Id.*, section 1.7. Moreover, when the relevant trademark is recognizable in the disputed domain names, the addition of other terms does not prevent a finding of confusing similarity. *Id.*, section 1.8.

Applying these principles, the Panel finds the following: Omitting the ".io" TLD from the <amzcoins.io> disputed domain name, Complainant's entire AMZ mark is included, adding only the word "coins"; Omitting the ".io" TLD from the <amznpresale.io> disputed domain name, Complainant's entire AMZN mark is included, adding only the word "presale". The Panel concludes in each instance that the single-word additions to Complainant's marks do not prevent findings of confusing similarity.

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 names.

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 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 has provided credible evidence that when the Complaint was filed, the disputed domain names resolved to websites that (1) impersonated Complainant, (2) purported to promote an "Amazon Crypto" and "AMZ" cryptocurrency scheme, (3) prominently displayed Complainant's logos, and (4) made misrepresentations as to authorship.

The Panel accepts Complainant's undisputed allegations that Respondent is not a vendor, supplier or distributor of Complainant's offerings, has no relevant trademark rights, and has no authorization or license to use Complainant's trademarks in the disputed domain names or to display Complainant's trademarked logos. The Panel further accepts Complainant's undisputed allegations that the websites to which the disputed domain names resolve are part of a fake, unauthorized cryptocurrency scheme that is falsely represented to be associated with Complainant.

The Panel also accepts Complainant's averment that Respondent is not commonly known by the disputed domain names, and the Panel so finds.

Since Respondent's website does not route Internet users to authorized products or services associated with Complainant's trademarks, the Panel concludes that there is no *bona fide* use.<sup>1</sup>

Respondent has refrained from opposing the evidence of fraud, impersonation, and illegal copying provided by Complainant, and the Panel finds that the disputed domain names have been used for such activities. UDRP Panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests in a respondent. *E.g.*, [WIPO Overview 3.0](#), section 2.13.

In light of the evidence and allegations submitted by Complainant, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain names and that Complainant establishes a *prima facie* case. Respondent has not opposed or rebutted that *prima facie* case. The Panel rules, therefore that Respondent lacks rights or legitimate interests in the disputed domain names.

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

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

Finally, while paragraph 4(a)(iii) of the .IO Policy requires Complainant to prove either bad faith registration or bad faith use, the Panel finds that the amended Complaint establishes both bad faith registration and bad faith use of the disputed domain names.

The record shows that Respondent intended to misleadingly associate its websites with Complainant's genuine offerings. The Panel fully agrees with Complainant that "[s]ince the disputed domain names resolve to websites that display Complainant's Amazon Logos and falsely state that Complainant's affiliate Amazon.com, Inc. is the sites' author, it is clear that Respondent registered the disputed domain names with knowledge of Complainant's rights." This clearly shows Respondent's intention to disrupt Complainant's business and constitutes bad faith registration and bad faith use under Policy, paragraph 4(a)(iii).

The use of disputed domain names that are confusingly similar to the AMZN and AMZ marks to promote Respondent's fake cryptocurrency scheme is also clear evidence of bad faith registration and use under Policy, paragraph 4(a)(iv) ("by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site . . . by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site . . . or of a product or service on your web site . . .").

Respondent's failure to submit a response to the Complaint and its failure to provide accurate contact details as required by the Registrar are further evidence of use in bad faith.<sup>2</sup> *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel holds therefore that Respondent both registered and used the disputed domain names in bad faith, thus more than fulfilling the requirements of the third element of paragraph 4(a) of the Policy.

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<sup>1</sup> Even if the offerings via the websites to which the disputed domain names route were *genuine* products of Complainant, the websites would not qualify for fair use since the websites mislead Internet users by failing to disclose their 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 & 2.8.

<sup>2</sup> Notification of these proceedings by courier was not possible due to incomplete contact details provided by Respondent.

## **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 names, <amzcoins.io> and <amznpresale.io>, be transferred to Complainant.

*/Jeffrey D. Steinhardt/*

**Jeffrey D. Steinhardt**

Sole Panelist

Date: June 23, 2023