

ADMINISTRATIVE PANEL DECISION

Arista Networks Inc. v. Immanuel Reuben, Sunsumi Inc
Case No. DIO2023-0019

1. The Parties

Complainant is Arista Networks Inc., United States of America (“United States” or “U.S.”), represented 101domain.com, United States.

Respondent is Immanuel Reuben, Sunsumi Inc, United States.

2. The Domain Name and Registrar

The disputed domain name <cloudvision.io> (the “Domain Name”) 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 June 14, 2023. On June 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 14, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 June 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 25, 2023.

The Center appointed John C. McElwaine as the sole panelist in this matter on August 7, 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 globally recognized computer networking and software company. One of its services offerings is named "Cloudvision". Relevant to this matter, Complainant owns a United States trademark registration, U.S. Reg. No. 4,112, 143, for the mark CLOUDVISION registered on March 13, 2012 in International Class 9.

On May 21, 2016, Respondent registered the Domain Name with the Registrar. At the time of filing the Complaint, the Domain Name resolved to an active website, where Complainant's CLOUDVISION mark is prominently displayed and the Respondent purportedly offers online business management solutions (the "Respondent's Website").

5. Parties' Contentions

A. Complainant

As background for this matter, Complainant asserts that it was founded in 2004 and provides technological networking products as well as software solutions for network management, monitoring, and network detection and response worldwide, through its primary website "www.arista.com". Complainant alleges that it delivers its computer networking products and services to Fortune 500 customers located across six continents.

Complainant asserts that its CLOUDVISION service offering is a multi-domain management platform to simplify network operations with consistent performance and optimal scalability on a global level. Complainant further alleges that it has owned the <cloudvision.com> domain name since at least 2008 and that this domain name resolves to a website promoting its CLOUDVISION-branded products and services. Complainant alleges that it has been operating in the computer networking sector for nearly two decades, building worldwide brand recognition around its CLOUDVISION trademark since 2011. Complainant asserts that it filed for a United States trademark CLOUDVISION in 2008, which was subsequently registered on March 13, 2012. Collectively, Complainant's registered trademark rights and common law trademark in CLOUDVISION are referred to herein as the "CLOUDVISION Mark".

Complainant alleges that it became aware of the Domain Name when Complainant was in the process of expanding its domain portfolio for its CLOUDVISION products. Complainant asserts that it sent multiple letters, notifying Respondent of its infringement of Complainant's trademark and requesting informally to acquire the Domain Name without involving litigation or administrative proceedings. Complainant explains that Respondent neglected to respond to either letter, and thus, this proceeding was filed.

With respect to the first element of the Policy, Complaint asserts that it has been using the CLOUDVISION Mark since 2011 and has a United States trademark registration for the CLOUDVISION Mark. Complainant further points out that the Domain Name is identical to its CLOUDVISION Mark.

With respect to the second element of the Policy, Complainant asserts that it has neither licensed nor allowed Respondent to use the CLOUDVISION Mark for any purpose. Complainant further alleges that Respondent has no registered trademarks using the term "Cloudvision". Complainant contends that Respondent is not commonly known by the Domain Name and, instead, registered the Domain Name primarily for the purpose of disrupting the business of Complainant. Complainant also asserts that Respondent is not making a legitimate noncommercial or fair use of the domain because the Domain Name resolves to a website offering computer network solutions that are likely to cause confusion with Complainant's network operating services.

With respect to the third element of the Policy, Complainant alleges that Respondent is using the Domain Name to confuse prospective clients by seemingly promoting similar cloud and network solution services under an identical CLOUDVISION designation displayed on the website that resolves from the Domain

Name. Complainant further alleges Respondent's email and phone number listed on Respondent's Website is linked with a reportedly known fraudster/spammer from India. Complainant points out that Respondent omits any physical address or registered address on Respondent's Website and that Complainant has been unable to find a business record for "CloudVision" as listed on Respondent's Website. Additionally, Complainant asserts that it was unable to find a connection with Respondent's organization, Sunsumi Inc. and "CloudVision". Complainant asserts that the Domain Name was registered primarily for the purpose of disrupting Complainant's business. Complainant also alleges that the Domain Name is being used to create confusion with Complainant's CLOUDVISION Mark and is preventing Complainant from reflecting their trademark in the .IO country code Top-Level domain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Although Respondent defaulted, to succeed in this proceeding, paragraph 4(a) of the Policy requires Complainant to 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 or 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. Anonymous Speech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); and 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").¹ 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

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. 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. On this point, Complainant has provided evidence that it is the owner of a United States trademark registration for the CLOUDVISION Mark.

Accordingly, the Panel finds that the Domain Name is identical to Complainant's CLOUDVISION Mark in which Complainant has valid trademark rights. Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy paragraph 4(a)(ii), a complainant has the burden of establishing that a respondent has no right or legitimate interests in the disputed domain name. Complainant needs to make a *prima facie* showing

¹ Given the similarities between the Policy and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), the Panel will refer to cases decided under UDRP and notably the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") if relevant to this proceeding.

on this element, at which point the burden of production shifts to Respondent to present evidence it has rights or legitimate interests in the disputed domain names. If respondent fails to do so, Complainant can be deemed to have satisfied this burden under Policy paragraph 4(a)(ii). See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a/ Cupcake Party*, WIPO Case No. [D2000-1415](#).

Complainant asserts that it has never given Respondent permission to use the CLOUDVISION Mark in the Domain Name or in any other manner. Complainant further asserts that Respondent is using the CLOUDVISION Mark in the Domain Name and on Respondent's Website in a manner that is likely to cause confusion with Complainant. Although properly notified by the Center, Respondent submitted no responses on this point to either Domain Name. The silence of Respondent may support a finding it has no rights or legitimate interests regarding the Domain Name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-1017](#); *Nordstrom, Inc. & NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#). The Panel finds Complainant has made a *prima facie* showing concerning this element.

Under paragraph 4(c) of the Policy, a respondent's rights or legitimate interests to a domain name may be established by demonstrating any of the following three conditions: (i) before any notice to respondent of the dispute, respondent's 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) respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if respondent has acquired no trademark or service mark rights; or (iii) respondent is 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.

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name, as the Whois information lists Respondent as Immanuel Reuben with Sunsumi Inc. In addition, Complainant presented evidence that the email and phone number listed on Respondent's Website is linked with a reportedly known fraudster/spammer from India. Respondent cannot rely upon paragraph 4(c)(ii) of the Policy.

The composition of the Domain Name carries a high risk of implied affiliation with Complainant. It does not appear as if Respondent is making a *bona fide* offering of services. Complainant has alleged that the CLOUDVISION Mark is a well-known mark and that Respondent has developed a website intended to attract internet users seeking Complainant's CLOUDVISION Mark. Without a response from Respondent explaining its rights or legitimate interests to use the CLOUDVISION Mark in the Domain Name and on Respondent's Website, there is no other credible explanation to support such *bona fide* or fair use rights to use a domain name identical to a well-known trademark in connection with highly related services. See *Peter Frampton v. Frampton Enterprises, Inc.*, WIPO Case No. [D2002-0141](#) (the use of a domain name which incorporates a registered mark in order to sell products in the same class as mark holder inherently and intentionally seeks to exploit user confusion, and therefore cannot constitute *bona fide* use); *Chicago Mercantile Exchange Inc., CME Group Inc. v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Nikolay Korobeynikov*, WIPO Case No. [D2016-0654](#) (finding no legitimate interest in a website resolving from the disputed domain name, which mirrored, and purported to be, the website of "CME Group" and which provided information relating to the trading of futures and options). The Panel finds that Policy paragraph 4(c)(i) and Policy paragraph 4(c)(iii) do not apply to Respondent.

Accordingly, for the reasons detailed above, Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent had the opportunity to put forth evidence of its rights or legitimate interests yet provided no substantive response as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a response and combined with the factors as detailed above, the Panel finds that Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered or 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.

Bad faith registration can also be found where respondents “knew or should have known” of complainant’s trademark rights and nevertheless registered a domain name in which they had no right or legitimate interest. See *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Here, the CLOUDVISION Mark represents the goodwill of a well-known brand, which is also a unique and distinctive trademark. Complainant’s CLOUDVISION Mark was in use in commerce for years before Respondent’s registration of the Domain Name. Based on Complainant’s submission, which was not rebutted by Respondent, Respondent must have known of Complainant’s CLOUDVISION Mark when it registered the Domain Name. See *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#) (finding that “it is likely improbable that Respondent did not know about Complainant’s WHATSAPP trademark at the time it registered the Disputed Domain Name considering the worldwide renown it has acquired amongst mobile applications, and the impressive number of users it has gathered since the launch of the WhatsApp services in 2009”).

As discussed herein, Respondent registered the inherently misleading Domain Name and linked it to Respondent’s Website prominently using Complainant’s CLOUDVISION Mark in provision of online business management solutions. This amounts to bad faith use of the Domain Name by Respondent. See *Identigene, Inc. v. Genetests Labs*, WIPO Case No. [D2000-1100](#) (finding bad faith where the respondent’s use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site); *MathForum.com, LLC v. Weiguang Huang*, WIPO Case No. [D2000-0743](#) (finding bad faith under paragraph 4(b)(iv) of the Policy where the respondent registered a domain name confusingly similar to the complainant’s mark and the domain name was used to host a commercial website that offered similar services offered by the complainant under its mark).

As detailed above, the Panel finds on the record before it that Respondent’s intention in registering the Domain Name was to attract, for commercial gain, Internet users to Respondent’s website by creating a likelihood of confusion with the CLOUDVISION Mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location. Thus, the Panel holds that Complainant has met its burden of providing sufficient evidence that Respondent registered and is using the Domain Name in bad faith under paragraph 4(b)(iv) of the Policy.

For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered or is using the Domain Name in bad faith under paragraph 4(a)(iii) 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 Domain Name, <cloudvision.io>, be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: August 17, 2023