

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. 杨智超 (Zhichao Yang)
Case No. D2022-1893

1. The Parties

The Complainant is Asurion, LLC, United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is 杨智超 (Zhichao Yang), China.

2. The Domain Names and Registrars

The disputed domain names <aassurionsetup.com>, <assurionseetup.com>, <assurionsetip.com>, <assurionsetuup.com>, <assurionssetup.com>, <assurionswtup.com>, <assurionsetup.com>, <asurionsetu.com>, <asurionseup.com>, and <techcoachasurion.com> are registered with Alibaba Cloud Computing (Beijing) Co., Ltd., and the disputed domain name <aasurionsetup.com> is registered with GoDaddy.com, LLC (collectively the “Registrars”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2022 regarding the disputed domain names <aassurionsetup.com>, <assurionseetup.com>, <assurionsetip.com>, <assurionsetuup.com>, <assurionssetup.com>, <assurionswtup.com>, and <assurionsetup.com>. On May 28, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On May 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 2022 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 in English on June 2, and June 3, 2022, respectively, together with a consolidation request to add the disputed domain names <asurionsetu.com>, <aasurionsetup.com>, <techcoachasurion.com> and <aasurionsetup.com> into these proceedings.

On May 31, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On June 2, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaints 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 in Chinese and English of the Complaint, and the proceedings commenced on June 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2022.

The Center appointed Rachel Tan as the sole panelist in this matter on July 25, 2022. 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 company that offers insurance, technology, mobile phone replacement, configuration, technical support, IT consultation, and related products and services under the ASURION mark. It has been active since 1994 and has used the ASURION mark since at least as early as 2001. It has served over 280 million consumers worldwide, and its services are made available by retailers worldwide. It has fourteen locations in North and South America, two locations in Europe, two locations in Australia, and ten locations in Asia, including China, Japan, Israel, Malaysia, the Philippines, Singapore, and Thailand.

The Complainant is the owner of the ASURION mark worldwide, including China Trade Mark Registration No. 8809457, registered on December 21, 2011, in class 37; China Trade Mark Registration No. 8809458 registered on December 7, 2011, in class 36; United States Registration No. 2698459 registered on March 18, 2003, in classes 35, 36 and 37; and United States Registration No. 4179272 registered on July 24, 2012 in classes 9, 42 and 45.

The Complainant advertises and sells its products and services through its <asurion.com> website and related websites, including <asurionsetup.com>. The Complainant and its licensees also own other domain names incorporating the ASURION mark, such as <asurion.biz> and <asurion.co>.

The Respondent is 杨智超 (Zhichao Yang), China.

The disputed domain names were either registered on August 19, 2020, September 4, 2019, or March 17, 2020. As provided in the Complaint, and at the date of this decision, all the disputed domain names resolve to active webpages that list out multiple third-party links related to different advertisements covering a variety of content, such as “Phones”, “Phone Plans”, “Set Up a New Phone”, “Internet Phone Calls”, and “Insurance Quotes”, amongst others.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant’s ASURION mark. The disputed domain names each incorporate the ASURION mark, or the word “assurion,” which is a close misspelling of the ASURION mark, together with the generic words “tech coach” or “setup” (or a close misspelling thereof). The addition of these generic words (or a close misspelling thereof) does not prevent the disputed domain names from being confusingly similar to the Complainant’s ASURION mark. As the Complainant’s business involves the provision of technical assistance and replacement and set up services for phones and other wireless devices, the addition of these generic words (or common misspellings thereof) in the disputed domain names serves to increase the

confusing similarity rather than to differentiate them from the Complainant's ASURION mark.

The Complainant further alleges that the Complainant is the exclusive owner of the distinctive and famous ASURION mark. ASURION or "assurion" is not the Respondent's name, and the Respondent is not and has never been commonly known as ASURION or "assurion". The Respondent is not and has never been a licensee or franchisee of the Complainant, and the Respondent has never been authorized by the Complainant to register or use the ASURION mark or to apply for or use any domain name incorporating the mark (or a typo-variant thereof). Further, the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services as the disputed domain names are directing to commercial parking pages showing pay-per-click advertising links to websites purportedly offering services identical or related to those of the Complainant.

The Complainant finally asserts that the disputed domain names were registered and are being used in bad faith. Given the trade mark registration of the ASURION mark, numerous domain names incorporating the ASURION mark and the Complainant's reputation, it is not plausible that the Respondent could have been unaware of the Complainant at the time of registration. The Respondent's knowledge of the Complainant is further supported by the inclusion of the word "setup" (or a common misspelling thereof) in the disputed domain names and the Respondent is using the disputed domain names to direct parking pages showing pay-per-click advertising links to websites purportedly offering services related to those of the Complainant. The Respondent is illegitimately capitalizing on the Complainant's name and reputation by generating unjustified revenues for each click-through of the sponsored links. Further, the Complainant claims that the Respondent has engaged in a pattern of cybersquatting.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the Respondent for the disputed domain name <aasurionsetup.com> is English and the rest of disputed domain names is Chinese. The Complainant has requested that English be adopted as the language of the proceeding based on the reasons below:

- (a) the disputed domain names are in Latin characters, rather than Chinese script;
- (b) the disputed domain names incorporate the English words "tech coach" or "setup" (or a misspelling thereof);
- (c) the Registration Agreement for one of the disputed domain names is in English;
- (d) the disputed domain names direct to commercial parking pages showing pay-per-click links in English; and
- (e) requiring translation of the Complaint and attached annexes from English to Chinese, or separation of the disputed domain name that is subject to an English Registration Agreement in a different proceeding, would

subject the Complainant to disproportionate expense and would cause undue delay and inconvenience.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel having considered the circumstances finds that English shall be the language of this proceeding.

The reasons are set out below:

(a) the Complainant is a company based in the United States. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur in translation expenses;

(b) the Respondent's choice of Roman letters for the disputed domain names and the English content of the webpages under the disputed domain names, indicates some familiarity with the English language;

(c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request for English to be the language of the proceeding, but the Respondent did not protest against this request;

(d) the Respondent has failed to participate in the proceeding even though the Center sent the notification of the Complaint in English and Chinese, and has been notified of its default; and

(e) The Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this decision in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the ASURION mark.

The Panel notes that the ASURION mark or a close misspelling of the ASURION mark is wholly encompassed within the disputed domain names. The ASURION mark is instantly recognizable as the most distinctive element of these disputed domain names. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")

Further, it is accepted by previous UDRP panels that the addition to the complainant's trade mark of other words or terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity between the domain name and the complainant's trade mark under the first element of the Policy. See section 1.8 of the [WIPO Overview 3.0](#). As such, the Panel finds the additional words "tech coach" or "setup" or misspelled versions thereof (which are related to the Complainant's business in the disputed domain names) do not preclude a finding of confusing similarity between the ASURION mark and the disputed domain names.

Lastly, it is permissible for the Panel to ignore the generic Top-Level Domain, in this case ".com". See section 1.11.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark.

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the ASURION mark, whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain names or reasons to justify the choice of terms that are identical or closely similar to "asurion". Further, there is no indication to show that the Respondent is commonly known by the disputed domain names or otherwise has rights or legitimate interests in any of them. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's ASURION mark or register the disputed domain names. The Respondent is not making a noncommercial use of the disputed domain names in the terms of paragraph 4(c)(iii) of the Policy since at the date of this decision all the disputed domain names are resolving to websites with links to third-party websites including some that directly reference the Complainant's business. Such usage may reasonably be assumed to be commercial in its intent and effect. Past UDRP panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's ASURION mark has been widely registered around the world, including in China where the Respondent locates. The disputed domain names were registered well after the registration of the Complainant's ASURION mark. Through extensive use and advertising, the Complainant's ASURION mark is known throughout the world. Search results using the key word "asurion" on an Internet search engine direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the ASURION mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's ASURION mark when registering the disputed domain names, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that "[...] mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain names are confusingly similar to the ASURION mark, meaning that bad faith registration of the disputed domain names can be presumed.

Moreover, the choice of the additional terms "setup" or "tech coach" (or the misspelling thereof) in the disputed domain names which refer to the Complainant's business further indicates bad faith on the part of the Respondent.

The disputed domain names currently direct Internet users to parking websites where Internet users are presented with different third-party websites of a commercial nature. The adoption by the Respondent of the “pay-per-click” business model using the Complainant’s trade mark without authorization for the purpose of attracting Internet users, may lead Internet users to be confused into thinking, even if only initially, that these websites are in some way endorsed by the Complainant. Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(iv) of the Policy.

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third-party trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *Asurion, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4231](#). Such constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant’s allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain names and, considering the Respondent’s lack of rights or legitimate interests, and by registering and using the disputed domain names as discussed above, the Panel is led to conclude that the disputed domain names were registered and are being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 names, <aassurionsetup.com>, <aasurionsetup.com>, <assurionseetup.com>, <assurionsetip.com>, <assurionsetuup.com>, <assurionssetup.com>, <assurionswtup.com>, <assurrionsetup.com>, <asurionsetu.com>, <asurionseup.com>, and <techcoachasurion.com>, be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: August 8, 2022