

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. Gary Singleton, Brett Lee, and Nicole Schuster
Case No. D2022-3468

1. The Parties

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

Respondents are Gary Singleton, United States, Brett Lee, United States, and Nicole Schuster, United States.

2. The Domain Names and Registrar

The disputed domain names <connect-asurion.com>, <help-asurion.com>, <join-asurion.com>, and <secure-asurion.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 17, 2022. On September 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. Also on September 20, 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 (Privacy Service Provided by Withheld for Privacy ehf, Iceland) and contact information in the Complaint.

The Center sent an email communication to Complainant on September 26, 2022 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 September 27, 2022.

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 Respondents of the Complaint, and the proceedings commenced on September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on October 20, 2022.

The Center appointed Phillip V. Marano as the sole panelist in this matter on November 1, 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

Complainant is Asurion, LLC, a privately held United States company founded in 1994 that provides insurance, technology, mobile phone replacement, repair, configuration, technical support, IT consultation, and related products and services. Complainant offers its goods and services through its official website under the domain name <asurion.com>. Complainant owns valid and subsisting registrations for the ASURION trademark in numerous countries, including the trademark for ASURION (Reg. No. 2,698,459 registered on March 18, 2003) in the United States, with the earliest priority dating back to March 12, 2001.

Respondent Gary Singleton registered the disputed domain name <connect-asurion.com> on September 13, 2022. Respondent Brett Lee registered the disputed domain name <help-asurion.com> on September 16, 2022. Respondent Nicole Schuster registered the disputed domain name <join-asurion.com> on September 15, 2022 and <secure-asurion.com> on September 14, 2022 (collectively, "Respondent").

At the time this Complaint was filed, two of the disputed domain names, <connect-asurion.com> and <help-asurion.com>, resolved to a website that mirrored Complainant's official employee login page. The remaining two disputed domain names failed to resolve to any website content.

5. Parties' Contentions

A. Complainant

Complainant asserts ownership of the ASURION trademark and has adduced evidence of trademark registrations in numerous countries around the world including the United States, with earliest priority dating back to March 12, 2001. The disputed domain names are confusingly similar to Complainant's ASURION trademark, according to Complainant, because they each contain Complainant's ASURION trademark in its entirety in combination with a hyphen and generic terms, such as "connect", "help", "join", or "secure", which actually serve to increase the confusing similarity rather than differentiate the disputed domain names.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain names based on: the lack of evidence that Respondent is known by any of the disputed domain names; the lack of any license or authorization between Complainant and Respondent; Respondent's use of the disputed domain names to resolve to webpages that mirror Complainant's official employee login page as part of Respondent's illegal website phishing scheme. In particular, Respondent clearly registered the disputed domain name <connect-asurion.com> with the intention of mimicking Complainant's official employee login page at <connect.asurion.com>.

Complainant argues that Respondent has registered and used the disputed domain names in bad faith for numerous reasons, including: the fame of Complainant's ASURION trademarks; Respondent's use of two of the disputed domain names to resolve to webpages that mirror Complainant's official employee login page as part of Respondent's illegal website phishing scheme; Respondent's failure to answer Complainant's cease and desist correspondence; and Respondent's otherwise passive holding of the remaining two disputed domain names that do not resolve to any website content.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Consolidation of Multiple Respondents

Paragraph 10(e) of the Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.11 and 4.11.2.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s). *Id.* See also *Facebook, Inc., Instagram, LLC, WhatsApp Inc., Facebook Technologies, LLC v. Jurgen Neeme, hello@thedomain.io and Jay Neeme*, WIPO Case No. [D2019-1582](#).

In this case, the Panel also concurs that consolidation of Complainant's multiple domain name disputes is appropriate because all evidence supports the conclusion that the same person/entity is responsible for all of the disputed domain names. Specifically, evidence provided by Complainant establishes that: (i) all disputed domain names share the same Registrar; (ii) all disputed domain names share the same proxy service, namely Withheld for Privacy ehf; (iii) all disputed domain names were registered the same week, between September 13 and 16, 2022; (iv) all disputed domain names consist of a generic word, followed by a hyphen and the ASURION trademark; (v) all disputed domain names are configured with the same name servers; (vi) the registration data for three of the disputed domain names share the same city and state "San Diego, California"; (vii) the registration data for all disputed domain names shares the identical telephone number and postal code; (viii) the registration data for all disputed domain names all utilize the same email address format and domain, namely "[first name].[last name]@tmail.link"; and (ix) the registration data provided for all disputed domain names appears to feature false or non-existent physical addresses.

7. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- (i) The disputed domain names are identical or confusingly similar to a trademark 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 and are being used in bad faith.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See [WIPO Overview 3.0](#), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) (“The Respondent’s default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)”).

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the ASURION trademark has been registered in numerous countries including the United States with priority dating back to March 12, 2001. Thus, the Panel finds that Complainant’s rights in the ASURION trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain names are identical or confusingly similar to Complainant’s ASURION trademark. In this Complaint, the disputed domain names are confusingly similar to Complainant’s ASURION trademark because, disregarding the “.com” generic Top-Level Domain (“gTLD”), the trademark is contained in its entirety within each of the disputed domain names. [WIPO Overview 3.0](#), section 1.7. (“This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, 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 ...”). In regards to gTLDs, such as “.com” in the disputed domain names, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

The combination with the terms “connect”, “help”, “join”, and “secure” do not prevent a finding of confusing similarity between Complainant’s ASURION trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.8 (Additional terms “whether descriptive, geographical, pejorative, meaningless, or otherwise” do not prevent a finding of confusing similarity under the first element”); see also *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) (“Each of the domain names in dispute comprises a portion identical to [the ATT trademark] in which the Complainant has rights, together with a portion comprising a geographic qualifier, which is insufficient to prevent the composite domain name from being confusingly similar to Complainant’s [ATT trademark]”), and *OSRAM GmbH v. Cong Ty Co Phan Dau Tu Xay Dung Va Cong Nghe Viet Nam*, WIPO Case No. [D2017-1583](#) (“[T]he addition of the letters ‘hbg’ to the trademark OSRAM does not prevent a finding of confusing similarity between the Disputed Domain Name and the said trademark.”). Indeed, the Panel concurs with Complainant that the additional terms “connect”, “help”, “join”, and “secure” do not dispel the confusing similarity between Complainant’s ASURION trademark and each of the disputed domain names.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Complainant must make out a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain names, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1.

It is evident that each Respondent in this case, is not commonly known by any of the disputed domain names or Complainant's ASURION trademark.

UDRP panels have categorically held that use of a domain name for illegal activity - including the impersonation of the complainant and other types of fraud - can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by Complainant asserting Respondent is engaged in such illegal activity, including that Respondent has masked its identity to avoid being contactable, or that Respondent's website has been suspended by its hosting provider. See [WIPO Overview 3.0](#), section 2.13. See, e.g., *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawreng*, WIPO Case No. [D2009-1017](#) ("Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives"). See also *The Commissioners for HM Revenue and Customs v. Name Redacted*, WIPO Case No. [D2017-0501](#) ("In addition, the disputed domain names ... have had their web hosting suspended as a result of fraudulent activities. This is evidence of bad faith registration and use of the disputed domain names"). In its Complainant, Complainant has submitted persuasive evidence that Respondent is using the disputed domain names <connect-asurion.com> and <help-asurion.com> to redirect to a website that mirrors Complainant's official employee login page, as part of Respondent's potential illegal website phishing scheme.

To this end, the second and third elements of the Policy may be assessed together where clear indicia of bad faith suggests that there cannot be any Respondent's rights or legitimate interests. [WIPO Overview 3.0](#), section 2.15.

Additionally, passively holding the disputed domain names, specifically in this case <join-asurion.com> and <secure-asurion.com>, in and of itself does not constitute a *bona fide* offering of goods or services. *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#).

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain names:

- (i) Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain names primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registrations to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain names;
- (ii) Respondent has registered the disputed domain names in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain names, provided that Respondent has engaged in a pattern of such conduct;
- (iii) Respondent has registered the disputed domain names primarily for the purpose of disrupting the business of a competitor;
- (iv) By using the disputed domain names, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's websites or other online locations, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's websites or locations or of a product or service on Respondent's websites or locations.

UDRP panels have categorically held that registration and use of a domain name for illegal activity - including impersonation, passing off, and other types of fraud - is manifestly considered evidence of bad faith within paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), section 3.1.4. As discussed above, Complainant has provided evidence that the disputed domain names <connect-asurion.com> and <help-asurion.com> redirected to a website that mirrors Complainant's official employee login page in furtherance to Respondent's potential illegal website phishing scheme. Indeed, Respondent's website misappropriated Complainant's trademarks, website trade dress, and copy written content.

In addition, passively holding a domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. This includes domain names that do not resolve to any website content. Where a domain name is being passively held, as alleged in this case with respect to the disputed domain names <join-asurion.com> and <secure-asurion.com>, bad faith registration and use exists based upon: (i) the degree of distinctiveness or reputation of the complainant's mark; (ii) the failure of the respondent to submit any response or offer any credible evidence of rights or legitimate interests; (iii) the respondent's concealing its identity or use of false contact details; and (iv) the implausibility of any good faith use which the domain name may be put. See *Id.* See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) ("A remedy can be obtained under the Policy only if those circumstances show that the Respondent's passive holding amounts to acting in bad faith.") To that end, the Panel acknowledges the multiple prior panel determinations under the Policy cited by Complainant concluding that Complainant's ASURION trademark is "well known" See, e.g., *Asurion, LLC v. Cindy Willis*, WIPO Case No. [D2018-2643](#); *Asurion LLC v. ORM Ltd/Contact Privacy Inc. d/b/a ContactPrivacy.com*, WIPO Case. No. [D2016-0578](#). In the Panel's view, these same prior panel determinations, coupled with Complainant's extensive portfolio of worldwide trademark registrations for Complainant's ASURION trademark, make any good-faith use of the disputed domain names relatively implausible. Furthermore, the Panel acknowledges Respondent's failure to offer any credible evidence of rights or legitimate interests. And as discussed further below, the Panel acknowledges Respondent's either intentional or default use of a proxy registration service, thus concealing its identity from Complainant.

Where it appears that a respondent employs a proxy service, or selects a registrar that applies default proxy services, merely to avoid being contacted by a complainant, or notified of a UDRP proceeding filed against it, UDRP panels tend to find that this supports an inference of bad faith. [WIPO Overview 3.0](#), section 3.6. Use of a privacy or proxy registration service to shield a respondent's identity and elude or frustrate enforcement efforts by a legitimate complainant demonstrates bad faith use and registration of a disputed domain name. See *Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#) (the use of a proxy registration service to avoid disclosing the identity of the real party in interest is also consistent with an inference of bad faith when combined with other evidence of evasive, illegal, or irresponsible conduct). Here, it is evident that Respondent has either intentionally employed a proxy registration service, or intentionally selected a registrar that offers default proxy registration services, to conceal its identity in conjunction with its use of the disputed domain names.

Further, the Panel concludes that failure by Respondent to answer Complainant's cease and desist letter "suggests that Respondent was aware that it has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith". See *America Online, Inc. v. Antonio R. Diaz*, WIPO Case No. [D2000-1460](#) (internal citations omitted). See also *Spyros Michopoulos S.A. v. John Talias, ToJo Enterprises*, WIPO Case No. [D2008-1003](#). Furthermore, the failure of Respondent to answer this 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 Respondent. See *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Finally, UDRP panels generally agree that the use of false registration data in connection with a disputed domain name further supports a finding of bad faith registration and use. See, e.g., *Action Instruments, Inc. v. Technology Associates*, WIPO Case No. [D2003-0024](#) (providing false contact information violates paragraph 2 of the Policy, which requires a registrant to represent that the statements it "made in [its] Registration Agreement are complete and accurate". Maintaining that false contact information in the Whois records (which can easily be updated at any time) after registration constitutes bad faith use of the domain

name because it prevents a putative complainant from identifying the registrant and investigating the legitimacy of the registration.); *Royal Bank of Scotland Group v. Stealth Commerce*, WIPO Case No. [D2002-0155](#); *Home Director, Inc. v. HomeDirector*, WIPO Case No. [D2000-0111](#). To this end, Complainant has offered persuasive evidence that Respondent has utilized false contact addresses, namely that the physical addresses provide no search engine or Google Maps results.

In view of the foregoing, the Panel concludes that Complainant has established the third element of the Policy.

8. 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, <connect-asurion.com>, <help-asurion.com>, <join-asurion.com>, and <secure-asurion.com> be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: November 15, 2022