

## **ADMINISTRATIVE PANEL DECISION**

Amerisure Mutual Insurance Company v. Carolina Rodrigues, Fundacion Comercio Electronico  
Case No. D2023-2008

### **1. The Parties**

Complainant is Amerisure Mutual Insurance Company, United States of America (“United States” or “US”), represented by Dykema Gossett PLLC, United States.

Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The Domain Name <amerisrue.com> (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 May 4, 2023. On May 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on May 22, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on May 22, 2023.

The Center verified that the Complaint together with the amendment to the 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 Respondent of the Complaint, and the proceedings commenced on May 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 21, 2023.

The Center appointed Mireille Buydens as the sole panelist in this matter on June 28, 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 offers insurance in various fields throughout the United States and has been in the insurance business for more than 110 years. Complainant has been using the mark AMERISURE in connection with these services since at least as early as April 1984.

Complainant also owns various United States trademark registrations for AMERISURE, alone or in combination with designs, *inter alia*:

- US trademark registration for AMERISURE, reg.no. 1343264, registered on June 18, 1985 (device mark)
- US trademark registration for AMERISURE, reg.no. 1343265, registered on June 18, 1985 (word mark);
- US trademark registration for AMERISURE, reg.no. 5688957, registered on March 5, 2019 (word mark)

These registrations have been duly renewed and are still valid. These registrations will jointly be referred to, in singular, as the "Trademark".

Complainant also owns the domain name <amerisure.com>.

The Domain Name was registered on April 25, 2023, and resolves to a pay-per-click website displaying links to third party websites offering roofing contractors and student loan refinancing services.

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

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

Complainant states, in summary and in so far as relevant, the following.

Complainant is a well-known insurance company in the insurance business for more than 110 years in the United States. It uses the Trademark since 1984 in the United States. It owns various trademark registrations in the US covering the Trademark as a word or device mark. Complainant has acquired considerable goodwill and reputation in the Trademark in the context of the insurance-services sector.

Complainant holds that Respondent is using the Domain Name for a pay-per-click website displaying links to third party web sites which, at least with respect to student loan refinancing service, provide services that are commercially related to the insurance underwriting services provided by Complainant.

Complainant holds that the Domain Name is confusingly similar to the Trademark. Complainant claims that the Domain Name is a typo squatted version of the Trademark. The misspelling in the Domain Name (the mere transposition of two letters – AMERISURE is misspelled to "Amerisrue") is not sufficient to escape the finding that the Domain Name is confusingly similar to Complainant's Trademark.

Complainant contends that Respondent has no rights nor legitimate interest in the Domain Name:

- 1) Respondent is not affiliated with nor authorized by Complainant in any way, and is not related in any way to its business.

- 2) There is no demonstrable use by Respondent of the Domain Name in connection with a *bona fide* offering of goods or services. Rather, all Respondent has done is register and use the Domain Name for the purpose of trading off Complainant's well known Trademark for commercial gain by redirecting traffic to third-party websites through pay-per-click links. The Domain Name was created to mislead consumers, suggesting sponsorship or affiliation with Complainant, when in fact there is none.
- 3) The nature of the Domain Name – consisting of Complainant's Trademark but merely transposing the letters "u" and "r" to form the word "Amerisrue"– cannot constitute a legitimate interest. It is rather typo squatting, which can also evidence that Respondent lacks rights and legitimate interests in the Domain Name.

Complainant further asserts that Respondent registered and uses the Domain Name in bad faith. Complainant holds that Respondent registered the Domain Name for the primary purpose of disrupting Complainant's business by creating a likelihood of confusion with Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of its website, and to generate traffic to Respondent's website for commercial gain.

On those facts, Complainant contends that Respondent has registered and is using the Domain Name in bad faith.

Complainant requests that the Domain Name be transferred to Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Dealing with Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

Complainant has established that it is the owner of the Trademark. The registrations of the Trademark predate the registration of the Domain Name.

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element ((see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))), section 1.9).

The Domain Name consists of a clear misspelling of Complainant's Trademark AMERISURE, by merely transposing the letters "u" and "r" to form the word "Amerisrue".

The generic Top-Level Domain ".com" is a standard registration requirement and does not prevent the Domain Name from being confusingly similar to the Trademark.

The Panel therefore finds that the Domain Name is confusingly similar to the Trademark.

The Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the Domain Name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1.).

In the Panel's opinion, Complainant's submissions set out above under 5.A give rise to a *prima facie* case that Respondent has no rights or legitimate interests in respect of the Domain Name.

First, Respondent is not affiliated with nor authorized by Complainant in any way.

Second, Respondent is not using the Domain Name in connection with a *bona fide* offering of products or services. Rather, Respondent uses the Domain Name for the purpose of trading off Complainant's well known Trademark for commercial gain by redirecting traffic to third-party websites through pay-per-click links. This suggests that Respondent had no *bona fide* intention behind the use of the Domain Name other than to mislead Internet users unaware of the slight misspelling in the Domain Name as compared to Complainant's Trademark.

In the absence of any evidence rebutting Complainant's *prima facie* case indicating Respondent's lack of rights or legitimate interests in respect of the Domain Name, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

Given that the Domain Name consists of a misspelling of Complainant's Trademark (*i.e.* typosquatting), Respondent was more likely than not aware of Complainant's Trademark at the time of the registration of the Domain Name. (See section 3.1.4 of the [WIPO Overview 3.0](#) that states that "the mere registration of a domain name that is identical or confusingly similar (particularly domain name 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".)

The Domain Name is also ideally suited to mislead the public. The composition of the Domain Name suggests that it is linked in some way with Complainant. Respondent has sought to create a misleading impression of association with Complainant, which is a well-known US insurer and thereby inspires confidence on the part of Internet users.

Furthermore, the failure of Respondent to submit a response or to provide any evidence of actual or

contemplated good faith use, or to this Complaint is further evidence of bad faith, given all the circumstances of the case (see [WIPO Overview 3.0](#), section 3.2).

Lastly, the Panel finds that the Domain Name appears to be the latest in a long line of bad faith registrations on part of Respondent, construing a pattern of bad faith registration that further reinforces the overall impression of bad faith. See *e.g.*, *Sidley Austin LLP v. Withheld for Privacy ehf / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-2366](#), *LEGO Juris A/S v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-1813](#), *Costa Limited v. Withheld for Privacy ehf / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [DCO2022-0001](#), among others. Although each case must be judged on its own merits, this circumstance can be taken into account in determining whether Respondent registered or used the Domain Name in bad faith.

Based on the evidence and circumstances of this case, the Panel concludes that the requirement of registration and use of the Domain Name in bad faith under paragraph 4(a)(iii) of the Policy has been fulfilled.

## 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 <amerisrue.com> be transferred to Complainant.

*/Mireille Buydens/*

**Mireille Buydens**

Sole Panelist

Date: July 12, 2023