

## **ADMINISTRATIVE PANEL DECISION**

Optimal Satcom, Inc. v. Leslie Grant, ESpace Networks, Inc  
Case No. D2024-4309

### **1. The Parties**

The Complainant is Optimal Satcom, Inc., United States of America (“United States”), represented by Holland & Knight LLC, United States.

The Respondent is Leslie Grant, ESpace Networks, Inc, United States, represented by Potomac Law Group, PLLC, United States.

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

The disputed domain name <getneuron.com> 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 October 18, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 22, 2024, 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 on October 23, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on October 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2024. The Response was filed with the Center on November 14, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on November 20, 2024. 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, a 2002 spin-off of Lockheed Martin and COMSAT, is a provider of enterprise computer systems and services for designing and optimizing satellite communications (“SATCOM”) networks and capacity. The Complainant is organized as a corporation under the laws of the State of Delaware, United States and headquartered in Herndon, Virginia, United States. One of the Complainant’s products since 2019 is NEURON, which performs real-time resource management for large SATCOM networks. This product is described on the NEURON page of the Complainant’s website at “www.optimalsatcom/neuron”.

The Complainant holds United States Trademark Registration Number 6017617, registered on March 24, 2020, for the standard character mark NEURON in international classes 9 and 42, for use in connection with its downloadable and online software. The Complainant applied for this registration on August 16, 2019, claiming first use in commerce “at least as early as” June 17, 2019. The Complaint claims that it acquired “far-reaching common law trademark rights” in its NEURON-inclusive domain name based on its use in commerce since “at least as early as 2019”. The Complainant’s support for this claim consists of a Whois report and website screenshots.

The Registrar reports that the disputed domain name was created on May 14, 2018, and registered in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent Leslie Grant.

Although the disputed domain name was created in 2018, the Complainant furnishes evidence that it was initially registered by a third party and offered for sale. This is undisputed. The Response states that the Respondent Ms. Grant registered the disputed domain name as part of her duties as an officer of ESpace Networks, Inc. (“ESpace”) on October 25, 2023, for the use and benefit of ESpace. The Response was filed on behalf of both Leslie Grant, as “VP, Marketing & Communications”, and her employer, ESpace, “aka Neuron”, “headquartered in the greater Miami, Florida area”. (The Panel notes that the respective online Delaware and Florida corporations databases show that ESpace Networks was incorporated in Delaware on October 25, 2019, and registered to do business in Florida on December 1, 2023.) Given these facts, the Decision refers hereafter to Ms. Grant and ESpace collectively as the “Respondent”.

The disputed domain name resolves to a website headed with a “neuron” figurative logo (the “Respondent’s website”) advertising AI (artificial intelligence) powered network management solutions for airlines, cruise lines, and shipping from “Neuron, formerly known as ESpace Networks”. Screenshots available from the Internet Archive’s Wayback Machine show that the disputed domain name has been used for the Respondent’s website since at least December 5, 2023.

The “Newsroom” page of the Respondent’s website includes a press release dated December 5, 2023, announcing that ESpace had changed its company name to “Neuron”, based on the name of one of the company’s products:

“As one of our flagship products, Neuron has become the fabric of our company over the last three years.”

The announcement clearly tied the Respondent’s “Neuron” product and the company’s rebranding to its emphasis on satellite technologies used by its airline, cruise line, and shipping customers:

“Looking ahead, we believe multi-vendor satellite networks and digitally transponded capacity will unlock new applications and digital experiences. As the industry becomes more open and diversified, there will never be

a better time for companies to embrace new satellite technologies, along with a mix of other connectivity solutions.”

The Respondent furnishes evidence of offering a NEURON-branded product since February 2020, “a connectivity software platform [that] provides customers with access to cloud-networking and online data and telecommunications via satellite systems and integrated satellite services”. The Respondent applied for United States trademark registration for the standard character mark NEURON on November 28, 2023, Serial Number 98287892, in International classes 9, 38, and 42 for its software, consulting, and software-as-a-service in satellite and other telecommunications. The application did not include a claim or supporting evidence of current use, although the Complaint furnishes evidence that the NEURON product was branded as such in customer agreements by the time the Respondent acquired the disputed domain name in October 2023. The Respondent’s trademark application is pending at the time of this Decision, following a non-final action letter from the United States Patent and Trademark Office (“USPTO”) dated October 11, 2024, requesting clarifications and finding a likelihood of confusion with the Complainant’s registered mark, among others.

The Response attaches copies of documents and images to support its claim that it has used the NEURON mark more generally in association with the company and its products and services since the rebranding announcement in December 2023:

“Since its name change announcement in December 2023, Respondent has issued Neuron business cards to employees, revised all employee email signature boxes to include the Neuron company name and trademark, and has handed out various pieces of Neuron-branded marketing ‘swag,’ including T-shirts, pens, notebooks, water bottles, breath mints, backpacks, etc., to customers and to attendees at industry conferences (Annex 7) as part of its marketing campaign for the new company name and its NEURON product and services. Respondent has become commonly known by ‘Neuron,’ the identical name of its software platform and the primary component within the Domain Name, getneuron.com.”

The Respondent’s website includes examples of joint press releases and advertising in 2023 and 2024 showing that it uses “Neuron” as a trade name and is known by partners and customers by that name since December 2023.

## **Court Proceeding**

The Respondent reports that the Complainant filed a complaint in federal court for trademark infringement against the Respondent on November 5, 2024, *Optimal Satcom, Inc. v. Espace Networks, Inc.*, Case 1:24-cv-01973 (U.S.D.C., E.D. Va., Alexandria Division). Neither party has requested suspension or termination of the current UDRP proceeding as a consequence.

The Decision in this mandatory UDRP proceeding is not, of course, binding on a court of competent jurisdiction, but it may offer prompt and limited relief within the confines of the UDRP framework. As noted in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.14.1: “Appointed panels are reluctant to suspend a UDRP case due to concurrent court proceedings, most notably because of the potential for indeterminate delay.” Accordingly, the Panel in this instance will proceed to Decision.

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its NEURON mark. The Complainant claims common law protection for that mark as part of its domain name from February 2019, as well as the March 24, 2020, United States registration of the mark. The Complainant states that it has not authorized the Respondent to use the NEURON mark and contends that the Respondent has only recently begun using the disputed domain name and a corresponding name and thus is not “commonly known” by it. The Complainant argues that the Respondent could have no right or legitimate interest in the disputed domain name because it had “at least constructive notice” of the Complainant’s mark and was trading on the Complainant’s goodwill.

The Complainant argues for a finding of bad faith by asserting that the Respondent was on notice of the Complainant’s federal trademark registration and likely aware of the Complainant’s “longstanding” use of the mark in its domain name. The Complainant and its mark were “well-known in the industry” by the time the Respondent chose the disputed domain name incorporating the Complainant’s mark. The Complainant contends that the Respondent is in “direct competition” with the Complainant, offering computer software related to network performance, and the disputed domain name diverts Internet traffic by suggesting that the Respondent is somehow connected to the Complainant. The Complainant concludes that the Respondent “knew or should have known” that the disputed domain name infringed the Complainant’s trademark rights.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. The disputed domain name is not identical to the Complainant’s NEURON mark. The Respondent claims a legitimate interest in the disputed domain name, as it has been offering a product named “NEURON” since February 2020, which is reflected in a pending application for trademark registration. The Respondent is also commonly known by the name “Neuron”, as it has been conducting its entire business under that name since December 2023.

The Respondent insists that it is not acting in bad faith in an effort to confuse customers. The Respondent states that it is not a competitor of the Complainant. They both provide “computer software related to network performance”, as do thousands of companies. However, the Complainant’s NEURON product is for satellite capacity management, while the Respondent’s is for multi-WAN (wide area network) management, serving different purposes as customers can readily discern. “Respondent registered and used the Domain Name to further market its already existing NEURON software and connectivity platform”, not to divert the Complainant’s customers or disrupt its business.

## **6. Discussion and Findings**

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark (the registered NEURON mark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “get”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

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

The Panel finds that, before notice to the Respondent of the dispute, the Respondent used the disputed domain name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.2. The record indicates that the Respondent acquired the disputed domain name in October 2023 and employed it starting in December 2023 in connection with its offering – not only of its specific software-based services that had been branded as NEURON since 2020, but also a rebranding of the entire company and its commercial offerings. This would satisfy the example of rights or legitimate interests given in the Policy, paragraph 4(c)(i), unless it were established that the Respondent more likely than not branded its service NEURON and chose the trade name “Neuron” to exploit the Complainant’s mark. This possibility is considered further in the following section on the issue of bad faith.

The Panel finds that the Respondent has been commonly known by the disputed domain name or a name correspondent to the disputed domain name, “Neuron”, since December 2023. [WIPO Overview 3.0](#), section 2.3. Again, this would not represent a legitimate interest, consistent with the Policy, paragraph 4(c)(ii), if the evidence pointed to deliberate targeting of the Complainant’s NEURON mark, as discussed further in the following section.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. These include paragraph 4(b)(iii) (disrupting the business of a competitor) and 4(b)(iv) (attempting to divert Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s trademark).

In the present case, the Panel observes that the Complainant by its own account began using NEURON as a mark in June 2019 on a sub-domain of its website, in connection with a specialized software platform for operators of large satcom networks. The mark was registered in March 2020. The Complainant has never used it as a domain name. There is substantial evidence that the Respondent began using NEURON as a mark in February 2020 for software services supporting wide-area networks using satellites and other communications technologies employed in specific transportation industries. The record does not support the Complainant’s claim that the Parties are direct competitors. It does not indicate, for example, if and how their business partners or customers overlap, or that they participate in the same advertising markets, industry associations, or trade events.

The Panel notes that the NEURON mark is also a dictionary word in English, referring to a specialized cell in the nervous system of humans and other animals that transmits electromechanical messages (see, e.g., Wikipedia article on “Neuron”). This makes an apt descriptive or suggestive metaphor for a digital communications network such as those involved in both of the Parties’ NEURON-branded software offerings. Not only the Parties here, but many other companies have used NEURON metaphorically as a mark in that sense, referring to nodes in a network. These include eight other NEURON or NEURON-derivative trademark holders beside the Complainant that are referenced by USPTO in its non-final action letter citing confusing similarity in preliminarily rejecting the Respondent’s application to register NEURON as a trademark. The WIPO Global Brand Database shows many more outside the United States (the “NEURON” search results run to 20 pages). The Panel notes as well that neither Party appears in the first 20 pages of Internet search results on the term “neuron”.

The Panel is not willing to embrace the doctrine of “constructive notice” advanced by the Complainant without some supporting evidence of likely targeting of the Complainant’s mark (see [WIPO Overview 3.0](#), section 3.2.2). The Complainant’s mark is not highly distinctive or long-established, and the record does not indicate that it is well-known outside a rather limited and specialized circle of potential customers not shown to overlap with the Respondent’s. Moreover, the record indicates that the Respondent was using a NEURON mark before the Complainant’s mark was registered, and the Complainant relies for prior common-law protection on its use in a sub-domain on a website aimed at a specialist audience.

In the totality of these circumstances, the Panel considers it more likely that the Respondent selected the disputed domain name for its descriptive or suggestive sense, rather than any debatable value it would have in emulating the Complainant's then nascent brand. The Parties may litigate their respective trademark claims and defenses in the context of the pending USPTO and federal court proceedings, but for UDRP purposes the Panel does not find it probable that the Respondent registered and used the disputed domain name in bad faith to target the Complainant's NEURON mark.

The Panel finds the third element of the Policy has not been established. Following the reasoning above, the Panel also confirms that the second element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: December 4, 2024