

ADMINISTRATIVE PANEL DECISION

Arista Networks Inc. v. Douglas Smith
Case No. D2022-3153

1. The Parties

Complainant is Arista Networks Inc., United States of America (“U.S.”), represented by Brand Enforcement Team, 101 Domain, U.S.

Respondent is Douglas Smith, U.S.

2. The Domain Name and Registrar

The disputed domain name <arista-inc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on August 26, 2022, 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 and contact information in the Complaint (Privacy Service provided by Withheld for Privacy ehf). The Center sent an email communication to Complainant on August 30, 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 14, 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 Respondent of the Complaint, and the proceedings commenced on September 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 6, 2022.

The Center appointed Timothy D. Casey as the sole panelist in this matter on October 20, 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 a computer networking and operating system company, founded in 2004, that provides technological products and software solutions for monitoring and network detection to large companies on six continents. Complainant has used ARISTA as a trademark in connection with its products since 2008 and first registered “arista.com” in 1998. Complainant owns two trademark registrations that comprise ARISTA, including EUIPO Registration No. 8473721, registered February 1, 2010, and U.S. Registration No. 4893674, registered January 26, 2016 (the “ARISTA Marks”).

Complainant owns numerous domain names that include “arista” with various combinations of generic Top-Level Domains (gTLDs) and country code Top-Level Domains (ccTLDs). The domain name <arist.com> directs to a website including information about Complainant and its various products.

The disputed domain name was registered on January 22, 2022. According to the evidence submitted with the Complaint, the disputed domain name has been used for sending emails impersonating an employee associated with Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name, which includes “arista”, a hyphen, and the abbreviation “inc” (for “incorporation”), is confusingly similar to the ARISTA Marks. Complainant contends that the disputed domain name fully incorporates the ARISTA Marks, which is sufficient to render the disputed domain name confusingly similar to the ARISTA Marks. Complainant contends that the addition of a hyphen and “inc” is an attempt by the Respondent to validate the disputed domain name in an effort to confuse unsuspecting Internet users for fraudulent means. Finally, Complainant notes that Respondent’s posing as a “Purchase Manager” for Complainant further adds to the potential for confusion.

Complainant contends that Respondent has no rights or legitimate interests in the disputed domain and has not been licensed or allowed by Complainant to use the ARISTA Marks. Complainant provided copies of emails using the disputed domain name that were sent by Respondent or someone associated with Respondent, which impersonated an employee of Complainant, fraudulently attempting to solicit orders and credit information on behalf of Complainant. Complainant filed an abuse complaint with the Registrar and the Registrar confirmed the disputed domain name had been suspended for spear phishing in April 2022.

Respondent has not registered any trademark using the term “arista” and is not commonly known by the disputed domain name. Complainant asserts that Respondent is not using or preparing to use the disputed domain name in connection with a legitimate noncommercial or fair use of the disputed domain name because it is suspended, and the only use Respondent had made of the disputed domain name was to actively disrupt Complainant’s business and to tarnish the ARISTA Marks. Complainant further contends that there is no evidence that Respondent is making a *bona fide* use of, or demonstrable preparations to use the disputed domain name in connection with any legitimate offering of goods or services.

Complainant believes Respondent registered and is using the disputed domain name in bad faith because Respondent registered the disputed domain name using Complainant’s address, which shows that Respondent was aware of the ARISTA Marks at the time of registration. Further, by impersonating an employee of Complainant, listed on the “arista.com” website, and attempting to swindle technology

companies through false communications and representations, shows that Respondent was using the disputed domain name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant's use of the ARISTA Marks as early as 2008 and Complainant's registration of the ARISTA Marks is sufficient to establish that Complainant has trademark rights in the ARISTA Marks.

Complainant contends that the disputed domain name is confusingly similar to the ARISTA Marks. Complainant contends that the addition of a hyphen and the term "inc" after "arista" does not prevent a finding of confusing similarity to Complainant's ARISTA Marks.

The Panel agrees and finds that the disputed domain name is confusingly similar to the ARISTA Marks.

B. Rights or Legitimate Interests

The Panel finds that Respondent has no rights or legitimate interests in the disputed domain name. Respondent does not appear to be commonly known by the disputed domain name or the term "arista". Complainant has not licensed or authorized Respondent to use or register the disputed domain name. Regardless of what Respondent's true intention may have been in contacting third parties under false pretenses using the disputed domain name, use of the disputed domain name to impersonate one of Complainant's employees in this manner alone is sufficient to support the Panel's conclusion that Respondent's use was not a legitimate noncommercial or fair use and does not constitute a *bona fide* offering of goods or services. Rather, such fraudulent use can never confer rights or legitimate interests on Respondent. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.13. Respondent has not rebutted Complainant's *prima facie* case and has provided no arguments or evidence showing potential rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprised of the ARISTA Marks with an added hyphen and a generic descriptor of Complainant's company, carries a risk of implied affiliation with Complainant as it effectively impersonates or suggests sponsorship or endorsement by Complainant, and accordingly cannot constitute a fair use. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For these reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given i) Respondent's utilization of Complainant's address in the registration of the disputed domain name, ii) the nature of the disputed domain name in combination with fraudulent emails that appear designed to trick third parties into believing some affiliation with Complainant, iii) the subsequent timing of the registration of the disputed domain name, iv) Complainant's prior trademark rights in the U.S. and abroad, the Panel finds that Respondent clearly knew of the ARISTA Marks at the time of registration of the disputed domain name. Respondent's registration of the disputed domain name was therefore in bad faith.

In addition, the Panel finds the subsequent apparently fraudulent usage of the disputed domain name and the sending of email communications impersonating an employee of Complainant, to constitute use in bad faith consistent with paragraph 4(b)(iv) of the Policy.

The Panel concludes that the disputed domain name was registered and is being used in bad faith.

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, <arista-inc.com>, be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: November 7, 2022