

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. rob boss

Case No. D2022-3744

1. The Parties

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

Respondent is rob boss, United States.

2. The Domain Name and Registrar

The disputed domain name <asurion.help> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 6, 2022. On October 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on October 10, 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 October 10, 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 October 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 14, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on November 18, 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 United States company. For decades prior to the registration of the disputed domain name, Complainant has offered insurance, technical, and other services under its ASURION mark. Complainant owns numerous trademark registrations for the ASURION mark in United States, where Respondent lists an address of record. These include, among others, United States Registration No. 2698459 in International Classes 35, 36, and 37 (registered March 18, 2003). Complainant also owns domain names that incorporate its ASURION mark. These include <asurion.com>, which Complainant uses to connect with consumers, and to inform them of its various insurance, technical, and other products and services.

The disputed domain name was registered on October 5, 2022. Although it appears to resolve to a currently inactive webpage, Respondent has used a URL associated with the disputed domain name to connect to a webpage requesting personal identifying information. Respondent has no affiliation with Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the "well-known" ASURION mark, which is "coined and highly distinctive". Complainant contends that Respondent has incorporated the ASURION mark into the disputed domain name, with the addition of only a generic Top-Level Domain ("gTLD") ".help".

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name, and rather has registered and is using it in bad faith to profit from the good will of Complainant's mark for Respondent's own commercial gain. In particular, Complainant contends that Respondent has acted in bad faith in setting up a fraudulent webpage and potentially fraudulent email communications.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is.

The disputed domain name incorporates in full Complainant's ASURION mark. Typically, a gTLD may be ignored for purposes of considering this first element. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.11.1.

The Panel therefore finds that Complainant has satisfied the first UDRP element, in showing that the disputed domain name is identical to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no rights or legitimate interests as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include:

- (i) use of the domain name “in connection with a *bona fide* offering of goods or services;”
- (ii) demonstration that respondent has been “commonly known by the domain name;” or (iii) “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

No evidence has been presented to the Panel that might support a claim of Respondent’s rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant. Rather, the evidence presented illuminates Respondent’s illicit intention to use the identical disputed domain name to collect confidential information from Complainant’s employees, an illegal activity that can never confer rights or legitimate interests upon Respondent. See, [WIPO Overview 3.0](#), section 2.13. Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or of a product or service on [the] web site or location”. As noted in Section 4 of this Decision, although the disputed domain name resolves to an inactive web page, Respondent has used the disputed domain name to connect to a webpage requesting personal identifying information.

Hence, Respondent is trading on the goodwill of Complainant’s trademarks to attract Internet users, presumably for Respondent’s own commercial gain. The Panel thus finds that despite the passive website use, Respondent registered and used the disputed domain name with knowledge of Complainant’s prior rights, thereby evidencing bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the “non-use of a domain name” does not necessarily negate a finding of bad faith, but rather, that a panel must examine “the totality of the circumstances.” This is particularly so, given findings by several prior UDRP panels regarding the level of exposure of Complainant’s ASURION mark. See, *Asurion, LLC v. Cindy Willis*, WIPO Case No. [D2018-2643](#); *Asurion, LLC v. Colours Ltd.*, WIPO Case No. [D2013-0388](#); *Asurion, LLC v. Super Privacy Service LTD c/o Dynadot*, WIPO Case No. [D2019-2326](#). Furthermore, Respondent has failed to participate in this proceeding, offering no rebuttal to Complainant’s contentions, and thus, for the Panel, there is no conceivable good faith use to which the disputed domain name could be put that would not unfairly capitalize on or target Complainant and its trademark.

Overall, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) 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 name, <asurion.help>, be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: December 2, 2022