

ADMINISTRATIVE PANEL DECISION

Amerisure Mutual Insurance Company v. Ginger Hackz
Case No. D2023-2306

1. The Parties

Complainant is Amerisure Mutual Insurance Company, United States of America, represented by Dykema Gossett PLLC, United States of America.

The Respondent is Ginger Hackz, United States of America.

2. The Domain Name and Registrar

The Disputed Domain Name <amerisure.cloud> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 26, 2023. On May 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 30, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complaint on May 31, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complaint to submit an amendment to the Complaint. Complaint filed an amendment to the Complaint on May 31, 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 June 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on June 22, 2023.

The Center appointed Michael A. Albert 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, Amerisure Mutual Insurance Company offers insurance underwriting in the field of property, casualty, automobile, boiler and machinery, workers compensation, liability, fire and allied lines, earthquake, ocean marine, inland marine, aircraft physical damage, fidelity and surety, burglary and theft, forgery, glass, sprinkler leakage, water damage, smoke and smudge, physical loss to buildings, and reinsurance; surety services and financial risk management, among other areas of business, throughout the United States. Amerisure has been using the mark AMERISURE in connection with these services since at least as early as April 1984.

Amerisure is licensed in and offers insurance underwriting services to customers in all fifty states. Amerisure has been in the insurance business for more than 110 years throughout the United States.

Complainant owns United States service mark registrations for the mark AMERISURE, alone and in combination with designs, the details of which are listed below.

Trademark Registration No.	Status
AMERISURE and Design RN: 1343264; SN: 73496052	Registered June 18, 1985 Renewed June 4, 2015 Office Status: Registered and Renewed
AMERISURE RN: 1343265; SN: 73496064	Registered June 18, 1985 Renewed June 4, 2015 Office Status: Registered and Renewed
AMERISURE COMMAND COVERAGE RN: 1934263; SN: 74517689	Registered Nov. 7, 1995 Renewed May 16, 2015 Office Status: Registered and Renewed
AMERISURE CONTRACTORS ADVANTAGE PROGRAM RN: 2231052; SN: 75086444	Registered Mar. 9, 1999 Renewed December 18, 2018 Office Status: Registered and Renewed
AMERISURE and Design RN: 5688958; SN: 87815563	Registered March 5, 2019
AMERISURE RN: 5688957; SN: 87815525	Registered March 5, 2019
AMERISURE SURETY and Design RN: 7032649; SN: 97257066 Disclaimer: "SURETY"	Registered April 18, 2023 Office Status: Registered
AMERISURE SURETY RN: 7032648; SN: 97257060 Disclaimer: "SURETY"	Registered, April 18, 2023 Office Status: Registered

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name <amerisure.cloud> is identical and confusingly similar to Complainant's AMERISURE mark, as it consists solely of the mark AMERISURE in combination with the gTLD ".cloud".

Complainant further contends that Respondent has no rights or legitimate interest in the mark AMERISURE, or the Disputed Domain Name, because Respondent is in no way affiliated with Complainant. The Disputed Domain Name is passively held and there is no evidence that Respondent ever used or made demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services or was making a legitimate noncommercial or fair use of the Disputed Domain Name.

Lastly, Complainant contends that Respondent registered the Disputed Domain Name for the primary purpose of disrupting Complainant's business by creating a likelihood of confusion with Complainant's AMERISURE mark as to the source, sponsorship, affiliation or endorsement of any future website and/or to prevent Complainant from having access to the Disputed Domain Name.

B. Respondent

The Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant has demonstrated that it owns multiple trademark registrations for the mark AMERISURE. Complainant contends that the Disputed Domain Name is identical and confusingly similar to its well-known mark as it wholly incorporates the AMERISURE mark. The gTLD ".cloud" is required only for technical reasons and, as is common in proceedings under the UDRP, can be ignored for the purposes of comparison of the Disputed Domain Name to Complainant's mark. See section 1.11 of the WIPO Overview of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Prior panels have held that "when a domain name wholly incorporates a complainant's registered mark that is sufficient to establish identity or confusing similarity for purposes of the Policy". See *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, Case No. [D2000-1525](#).

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 the Respondent may demonstrate rights or legitimate interests in a Disputed 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. [WIPO Overview 3.0](#), section 2.1.

There is no evidence demonstrating a *bona fide* offering of goods or services by Respondent. Respondent has not responded to Complainant's *prima facie* showing that Respondent lacks rights or legitimate interests. Complainant confirms that Respondent does not have license, permission, or authorization to use Complainant's mark. Furthermore, the Disputed Domain Name does not resolve to a website. Non-use supports a finding of no rights or legitimate interest in a disputed domain name. See, e.g., *Welch Foods Inc. v. USCYB*, WIPO Case No. [D2001-1072](#); *Expedia, Inc. v. Miles Pennella*, WIPO Case No. [D2001-1416](#).

Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was created on April 4, 2023, at least 38 years after Complainant registered the AMERISURE mark. Given that Complainant's marks are federally registered in the United States and have been widely used across the country during that time period, and that the Disputed Domain Name is identical to those marks, it is inconceivable that Respondent was not aware of Complainant and its marks when it registered the Disputed Domain Name. There is no plausible reason for such registration other than an attempt to interfere with Complainant's business or trade on its goodwill; nor has Respondent advanced any contrary argument. The fact that the Disputed Domain Name does not resolve to an active website does not preclude a finding of bad faith under the doctrine of passive holding; see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel finds that Complainant has satisfied 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 <amerisure.cloud> be transferred to Complainant.

/Michael A. Albert/

Michael A. Albert

Sole Panelist

Date: July 12, 2023