

## ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. 石磊 (Lei Shi)

Case No. D2023-2555

### 1. The Parties

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

The Respondent is 石磊 (Lei Shi), China.

### 2. The Domain Name and Registrar

The disputed domain name <asurion-conect.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2023. On June 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 15, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 16, 2023, 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 in English on June 19, 2023.

On June 16, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on June 19, 2023. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on June 28, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was July 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 19, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on July 25, 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**

The Complainant is a company offering insurance, technology, mobile phone replacement, configuration, technical support, IT consultation and related products and services since 1994. The Complainant advertises and promotes its products and services using its ASURION trade mark and its <asurion.com> domain name. The Complainant also owns a number of domain names containing the mark ASURION.

The Complainant is also the owner of several trade mark registrations for ASURION, including the following:

<b>Trade Mark</b>	<b>Registration Number</b>	<b>Registration Date</b>	<b>Jurisdiction</b>
ASURION	1118997	January 11, 2012	International Registration designating several jurisdictions including China
ASURION	8809457	December 21, 2011	China
ASURION	8809458	December 7, 2011	China
ASURION	8809459	November 21, 2011	China
ASURION	2698459	March 18, 2003	United States of America
ASURION	4179272	July 24, 2012	United States of America
ASURION	4314110	April 2, 2013	United States of America
ASURION	4997781	July 12, 2016	United States of America
ASURION	6010609	March 17, 2020	United States of America

The Respondent is an individual based in China. The Respondent has been the named respondent in at least 33 other URDP proceedings.

The disputed domain name <asurion-conect.com> was registered on January 7, 2023. At the date of this Complaint, the disputed domain name resolved to a webpage containing pay-per-click ("PPC") links to third party websites.

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

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

The Complainant contends that:

(a) The disputed domain name is confusingly similar to its trade mark. The disputed domain name wholly incorporates the Complainant's ASURION trade mark. The misspelling of "connect" in the disputed domain name by omitting an "n" and the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the trade mark;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorisation or license to use the Complainant's trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or

fair use of the disputed domain name. In fact the use made by the disputed domain name implies an affiliation with the Complainant which is not good faith; and

(c) The disputed domain name was registered and is being used in bad faith. The Respondent has registered the disputed domain name well after the Complainant acquired trade mark rights. Based on the use of the disputed domain name that includes references to the Complainant's products (which the Complainant claims are counterfeit), the Respondent registered and is using the disputed domain name to attract Internet users for commercial gain, creating a likelihood of confusion with the Complainant's trade mark.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1 Preliminary Issue – Language of the Proceeding**

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the language of the Registration Agreement for the disputed domain name is in Chinese. Based on the given evidence, there is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language for the proceeding under the following grounds:

- a) the disputed domain name is in Latin characters rather than Chinese script;
- b) the disputed domain name incorporates a common misspelling of the English word "connect";
- c) the website under disputed domain name is wholly in English; and
- d) in order to proceed in Chinese, the Complainant would have had to retain specialised translation services that would cause an unnecessary burden to the Complainant and delay the proceeding.

In accordance with paragraph 11(a) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding;
- the website under the disputed domain name is wholly in English (albeit it is a PPC page);
- an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. [D2008-1191](#), that a respondent's failure to respond to a preliminary determination by the Center as to the language of the

proceeding “should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint”.

## **6.2 Substantive Issues**

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

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

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

The Panel finds that the disputed domain name <asurion-conect.com> is confusingly similar to the Complainant’s trade mark. The disputed domain name incorporates the ASURION trade mark in full with the term “conect”, and followed by the gTLD “.com”. The addition of this word does not preclude a finding of confusing similarity. The gTLD is generally disregarded when considering the first element. (See section 11.1, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”))

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

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

The Respondent has not asserted any rights or legitimate interests in relation to the disputed domain name.

Section 2.1 of the [WIPO Overview 3.0](#) provides:

“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.”

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

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

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant has registered the ASURION trade mark and the use of the Complainant’s ASURION trade mark, paired with the term “conect”, which is a misspelling of the English word “connect”, cannot be a coincidence. The ASURION trade mark is used by the Complainant to conduct its business and the Complainant has used the trade mark for over 11 years.

The Panel is satisfied that the Respondent was aware of the Complainant and its ASURION trade mark when he or she registered the disputed domain name.

The Respondent has registered the disputed domain name to attract Internet users to the website for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. The disputed domain name directs Internet users to a parked webpage showing pay-per-click links to third party websites. In addition, the pay-per-click links lead to websites purportedly offering services identical or related to those of the Complainant. As mentioned above, the Respondent has also been the named respondent in over 33 UDRP disputes and a search of the Respondent's email address reveals over 31,000 domain names registered to the Respondent. The Respondent is clearly a serial cybersquatter.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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-conect.com> be transferred to the Complainant.

/Douglas Clark/  
**Douglas Clark**  
Sole Panelist  
Date: August 10, 2023