

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. cheryl murray

Case No. D2023-3448

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 cheryl murray, United States.

2. The Domain Names and Registrar

The disputed domain names <mfa-asurion.com> and <ndc-asurion.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2023. On August 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 14, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 the Complainant on August 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 a consolidated amended Complaint on August 17, 2023, and requested that the Center dismiss Case No. [D2023-3450](#) (disputed domain name <mfa-asurion.com>).

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”) and preliminarily determined that consolidation may be appropriate with the final consolidation decision resting with the Panel.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 22, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on October 6, 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 offers insurance, technology, mobile phone replacement, configuration, technical support, IT consultation, and related products and services under the ASURION trademark (the "Mark"). The Complainant has used the Mark since at least as early as 2001. The Complainant's principal website, "www.assurion.com", receives over 7.9 million visits annually. The Complainant has served over 280 million consumers worldwide.

The Complainant owns numerous valid and subsisting registrations of the Mark including United States Patent and Trademark Registration No. 2698459, dated March 18, 2003.

The disputed domain names were registered on August 11, 2023. Both the disputed domain names resolve to deceptive, phishing website warnings. Both disputed domain names used to resolve to a login page where the Internet user is asked to enter login information.

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain names are confusingly similar to the Mark because the disputed domain names are composed by preceding the Complainant's Mark with either the abbreviation "ndc", standing for "networked data center", or "mfa" standing for "multi-factor authentication". The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain names, that the Respondent is not generally known by the disputed domain names, never operated a business under the disputed domain names, has not advertised the disputed domain names, and never engaged in any *bona fide* commercial activity in connection with the disputed domain names. The Complainant asserts that the Respondent obviously knew of the Mark and used the disputed domain names in bad faith to phish information from unsuspecting Internet users.

B. Respondent

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

6. Consolidation and Procedural Determinations

The Complainant requests the consolidation of the Complainant's claims regarding the two disputed domain names. The Complainant seeks consolidation because of the similarity of the disputed domain names, their common ownership, their identical Registrar, and their identical dates of registration. The Respondent has not contested consolidation.

The Panel finds that consolidation would be fair and equitable. Consolidation will not prejudice the Respondent and will create procedural efficiencies. Accordingly, the Complainant's request for consolidation is granted and the Panel will consider the Complainant's claims against both disputed domain names in this proceeding.

7. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain names are confusingly similar to the Complainant's Mark.

The disputed domain names are confusingly similar to the Mark because the disputed domain names are composed of the Mark and the prefixes "ndc" and "mfa", which are commonly used abbreviations in the Complainant's industry. A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy when, as here, the Mark is clearly recognizable within the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8 ("where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"). In this case, the Mark is clearly recognizable in the disputed domain names notwithstanding the addition of the prefixes "ndc" and "mfa".

The Top-Level Domain of the disputed domain names, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds on the evidence presented that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain names or the Mark. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain names or is commonly known by the disputed domain names. The Complainant has established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain names.

The disputed domain names will likely confuse unsuspecting Internet users into believing the disputed domain names will resolve to websites associated, sponsored, or affiliated with the Complainant. Such association seems to have been the intent of the Respondent given the Respondent's apparent phishing.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain names. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds on the evidence presented that the disputed domain names were registered and used in bad faith. The Respondent has clearly used the Complainant's Mark in the disputed domain names to attract Internet visitors to the Respondent's website for apparent illicit purposes. In short, it is beyond any reasonable doubt that the Respondent has attempted to attract Internet users to the Respondent's website by featuring the Complainant's Mark in the disputed domain names to create a likelihood that Internet users will believe that the disputed domain names will resolve to websites offering services that are sponsored or affiliated with the Complainant.

Moreover, the Respondent is using the disputed domain names in connection with a phishing enterprise. Such use of the disputed domain names is paradigmatic evidence of bad faith registration and use. *Dm-Drogerie Markt GmbH & Co. KG v. WhoisGuard Protected, WhoisGuard, Inc. / Charlotte Meilleur*, WIPO Case No. [D2018-1248](#).

The Complainant has met its burden under paragraph 4(a)(iii) of the Policy.

8. 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 names <mfa-asurion.com> and <ndc-asurion.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: October 18, 2023