

ADMINISTRATIVE PANEL DECISION

Amerisure Mutual Insurance Company v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2023-3920

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <ammerisure.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 19, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 20, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 22, 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 amendment to the Complaint on September 22, 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 the Respondent of the Complaint, and the proceedings commenced on October 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 2, 2023.

The Center appointed Roger Staub as the sole panelist in this matter on November 15, 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 Amerisure Mutual Insurance Company, a company based in the United States of America. It offers insurance underwriting in numerous different fields throughout the United States of America. According to the Complainant's website at "www.amerisure.com", the Complainant is licensed in all fifty states and has been in business for more than 110 years.

It is undisputed that the Complainant has been using the mark AMERISURE in connection with its services at least as early as April 1984.

The Complainant owns various United States of America service mark registrations consisting of, or containing, the word "Amerisure". The Complainant's portfolio of AMERISURE trademark registrations includes, *inter alia*, the following trademark registrations:

- United States of America service mark No. 5688957 AMERISURE, registered on March 5, 2019, in Classes 35, 36, 41, 42 and 45 (claiming first use in commerce back in 1984);
- United States of America service mark No. 2231052 AMERISURE CONTRACTORS ADVANTAGE PROGRAM, registered on March 9, 1999, in Class 36.

The disputed domain name was registered on September 12, 2023. The disputed domain name redirects to a Pay-Per-Click ("PPC") website displaying links to third-party websites offering, *inter alia*, meal services and Islamic relief zakat.

5. Parties' Contentions

A. Complainant

The Complainant submits the following arguments:

First, the disputed domain name is confusingly similar to the Complainant's trademark AMERISURE. The disputed domain name consists of the Complainant's trademark in its entirety, and merely adds a letter "m" to form the confusing word "ammerisure", which is a clear case of typosquatting. The disputed domain name is likely to cause confusion amongst the Complainant's consumers who are searching for the Complainant's website at "www.amerisure.com".

Second, the Respondent has no rights or legitimate interest in the AMERISURE mark, or the disputed domain name, because the Respondent is in no way affiliated with the Complainant who is the rightful owner of the AMERISURE mark in the United States of America. At no time did the Respondent seek or obtain a license from the Complainant nor is the Respondent commonly known by the AMERISURE name or mark. There is no demonstrable use by the Respondent of the disputed domain name in connection with a *bona fide* offering of goods or services. The disputed domain name was created to mislead consumers and direct traffic to the Respondent's website for commercial gain (by redirecting traffic to third party websites through PPC-links). It also could be used by the Respondent to create a spoof email address for fraudulent purposes.

Third, the disputed domain name was registered and is currently being used in bad faith. The Respondent registered the disputed domain name for the primary purpose of disrupting the Complainant's business by creating a likelihood of confusion with the Complainant's AMERISURE mark and to generate traffic to the

Respondent's website for commercial gain. The Respondent could also use the disputed domain name for a spoof email address in order to fraudulently contact the Complainant's employees and consumers.

B. Respondent

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

6. Discussion and Findings

According to the Policy, to qualify for a cancellation or transfer, the Complainant must prove each of the following:

First, the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Third, the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not submit a reply, the Panel may choose to accept the reasonable contentions of the Complainant as true. This Panel will determine whether those facts constitute a violation of the Policy that is sufficient to order the transfer of the disputed domain name (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has registered trademark rights in the designation AMERISURE in the United States of America.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's AMERISURE mark, from which it differs only in the addition of the letter "m" and the generic Top-Level-Domain ("gTLD") ".com" suffix. The disputed domain name could readily be typed by mistake instead of a domain name identical to this mark apart from the gTLD suffix or misread as that domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

According to paragraph 4(c) of the Policy, the following are examples for circumstances where a respondent may have rights to or legitimate interests in a domain name: (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or (iii) the respondent is making a 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.

In the absence of any evidence filed by the Respondent, the Panel does not see any indications being given for any of the above examples, or any other circumstances suggesting that the Respondent may have rights or legitimate interests in the disputed domain name. The Respondent's company name is "Carolina Rodrigues" or "Fundacion Comercio Electronico" and there are no indications that she or her foundation are in any way legitimately linked to the business that the Complainant runs under the AMERISURE trademark or to any third-party owning rights in the name AMMERISURE. The fact that the disputed domain name is

used to host a parked page comprising PPC links clearly speaks against a *bona fide* offering as such use capitalizes on the reputation and goodwill of the Complainant's mark or otherwise misleads Internet users (see section 2.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The same is true for the fact that the element "ammerisure" is an obvious misspelling of the Complainant's mark AMERISURE, which the Complainant has been using for decades in the United States of America.

Hence, the second element of the Policy is also fulfilled.

C. Registered and Used in Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith: (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 registration 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; (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; (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 its website or location.

The Complainant submits as evidence a screenshot of the website accessible under the disputed domain name showing a number of links to websites. The Complainant submits that these are PPC links. The use of such PPC links suggests that the Respondent is using this disputed domain name as a tool to attract, for commercial gain, Internet users to its website. Hence, circumstance 4(b)(iv) is given and suggests bad faith intentions of the Respondent.

This finding is supported by other circumstances of the present case. The Panel notes that the disputed domain name consists of a misspelling of an established mark that had been used for a number of decades on an extensive scale by a leading company prior to the registration of the disputed domain name (see section 3.2.1 of the [WIPO Overview 3.0](#)). No explanation has been given by the Respondent for the registration of the disputed domain name and it is difficult to imagine a *bona fide* explanation for it. A further relevant element supporting this finding is the use of a proxy service, which in the present case, due to the lack of any explanation from the Respondent, seems to serve the mere purpose of avoiding being notified of a UDRP proceeding (see section 3.6 of the [WIPO Overview 3.0](#)).

Therefore, the third element of the Policy has also been fulfilled.

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 <ammerisure.com> be transferred to the Complainant.

/Roger Staub/

Roger Staub

Sole Panelist

Date: November 29, 2023