

ADMINISTRATIVE PANEL DECISION

American Society of Hematology, Inc. v. Azhar Mark, Conferences,
Stan Kartik, Conference
Case No. D2023-4513

1. The Parties

The Complainant is American Society of Hematology, Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

The Respondents are Azhar Mark, Conferences, India (“First Respondent”) and Stan Kartik, Conference, India (“Second Respondent”).

2. The Domain Names and Registrar

The disputed domain names <23ash.org> and <2023ash.org> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY / Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 2023, with the registrants and contact information of nominally multiple underlying registrants revealed by the Registrar, inviting the Complainant to either file separate complaints for each of the disputed domain names associated with different underlying registrants, or to demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 14, 2023.

The Center verified that 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 Respondents of the Complaint, and the proceedings commenced on November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on December 13, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on December 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 a professional society serving both clinicians and scientists around the world in the field of hematology. It was established in 1958 and currently has more than 18,000 members from nearly 100 countries. The Complainant's mission is to further the understanding, diagnosis, treatment, and prevention of disorders affecting the blood, bone marrow, and the immunologic, hemostatic, and vascular systems, by promoting research, clinical care, education, training, and advocacy in hematology.

The Complainant is the owner of the following trademark registrations for the sign ASH (the "ASH trademark"):

- the United States trademark ASH with registration No. 5570785, registered on September 25, 2018 for goods and services in International Classes 9, 16, 35, 36, 41, and 42, with claimed use in commerce since April 1958 for some of the goods and services; and
- the International trademark ASH with registration No. 1379338, registered on August 1, 2017 for goods in International Classes 9, 16, 35, 36, 41, 42 and 44, registered for multiple jurisdictions, including India, where the Respondents appear to be located.

The Complainant is also the owner of the combined United States trademark AMERICAN SOCIETY OF HEMATOLOGY and device with registration No. 2084324, registered on July 29, 1997 for services in International Class 42 (the "AMERICAN SOCIETY OF HEMATOLOGY and device trademark").

The details about the registration and use of the disputed domain names are the following:

Disputed domain name	Registrant	Date of registration
<23ash.org>	First Respondent	August 29, 2023
<2023ash.org>	Second Respondent	August 29, 2023

At filing of the Complaint, the disputed domain names resolved to parking pages provided by the Registrar. The disputed domain name <2023ash.org> has been used in a fraudulent email scam. While drafting the decision, the disputed domain names resolve to parked webpages of the Registrar, containing pay-per-click ("PPC") links.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainant states that the disputed domain names are confusingly similar to the ASH trademark, because this trademark is recognizable in them, since the disputed domain names are comprised of the ASH trademark preceded by the current year 2023 or an abbreviation of it. According to the Complainant, the

addition of the current year to the ASH trademark reinforces the confusing similarity, considering that the Respondents use the disputed domain names in connection with a scam that targets potential attendees of the Complainant's 65th ASH Annual Meeting and Exposition organized on December 9-12, 2023, in San Diego, California.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they are not commonly known by them and have not been authorized by the Complainant to use the ASH trademark. The Complainant submits that it has used the ASH trademark in the United States since 1958 in connection with its activities, so that its rights in this trademark predate the registration of the disputed domain names by 65 years. According to the Complainant, the Respondents have not used the disputed domain names in connection with a *bona fide* offering of goods or services. At least as early as October 18, 2023, the Respondents began using the disputed domain name <2023ash.org> for the email address "info" with the disputed domain name <2023ash.org> to perpetrate a housing and registration scam targeting potential attendees of the Complainant's annual meeting. The Complainant adds that it has been targeted by this type of scam each year during the months leading up to its annual meeting. The Complainant adds that the messages sent from the mentioned email address also include its AMERICAN SOCIETY OF HEMATOLOGY and device trademark in their signature block. According to the Complainant, such use of the disputed domain name <2023ash.org> is not a legitimate noncommercial or fair use, but an attempt to impersonate the Complainant.

The Complainant adds that it has encountered this particular scam in the past and that these conference registration and housing scams are used to collect personal information of potential conference attendees and collect money from them, either in the form of taking payment for purported conference registration or for actually registering attendees but then adding in unpublished additional costs claiming the cost to be government taxes, when in fact no such tax applies to registration fees for the Complainant's conferences. The Complainant adds that it has already recovered seven domain names via UDRP proceedings wherein such domain names were being used in a manner identical to the Respondents' current use of the disputed domain names.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the Respondents knew of the Complainant's prior rights in the ASH trademark when registering the disputed domain names, which is shown by their use of one of the disputed domain names for an email account targeting potential attendees of the Complainant's annual meeting with a phishing or impersonation scam.

The Complainant notes that it is not aware of any actual use of the other disputed domain name <23ash.org>, and maintains that it was registered for similar purposes and as a backup to the disputed domain name <2023ash.org> in the event the use of the same cannot be continued.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue – Consolidation of Respondents

The Complainant requests the consolidation of the Complaint against the two disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The Complainant maintains that the disputed domain names are registered to the same entity or are under common control, so that consolidation is warranted and necessary in the present proceeding and would be fair and equitable to all Parties. The Complainant points out that the two disputed domain names were registered on the same day and through the same Registrar, that they are associated with the same name servers and same mail exchange ("MX") servers, and that their registrants are individuals or entities located in Delhi, India.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the two disputed domain names were indeed registered on the same day and through the same Registrar, that they are associated with the same name servers and same MX servers, and their registrants are individuals or entities located in Delhi, India. In addition, the disputed domain names follow the same naming pattern, combining the Complainant's ASH trademark with the numbers "2023" or "23". According to the Complainant, these numbers refer to the present calendar year, so that to make the two disputed domain names appear related to the Complainant's 2023 annual meeting. Indeed, one of the disputed domain names has been used for setting up an email address through which email messages impersonating the Complainant and directly related to its 2023 annual meeting have been transmitted. In this context, it is also relevant that both registrants of the disputed domain name have as part of their indicated names "Confrence" or "Confrences" (sic), respectively.

The registrants of the disputed domain names have not commented on the Complainant's request for consolidation and have not disputed the evidence in the case or the allegation that they are one and the same entity or are under common control. In view of the above, the Panel concludes that it is more likely than not that the Respondents are indeed under common control.

As regards fairness and equity, the Panel is not aware of any reason why the consolidation of the Respondents in this proceeding would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (i.e., the First Respondent and the Second Respondent) in a single proceeding.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the ASH trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the ASH trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the ASH trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, the numbers "2023" or "23") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the ASH trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted the Complainant’s *prima facie* showing and have not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation and phishing activities) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The disputed domain names are confusingly similar to the Complainant’s ASH trademark and include the numbers “2023” or “23”. According to the Complainant, the disputed domain names are designed to refer to its 2023 annual meeting, which is confirmed by the fact that an email account set up at one of the disputed domain names has been used for the transmission of fraudulent messages impersonating the Complainant and offering registration and accommodation services in relation to the same annual meeting. The evidence submitted by the Complainant confirms that the following email message has been sent from the email address “[...]@2023ash.org” using the term “info”:

“Dear Attendee,

Greetings of the day!

Thank you for contacting the registration department of ASH 2023 (American Society of Hematology).

ASH 2023 will be held in San Diego, CA, USA from 09th-12th December 2023.

With more than 18,000 members from nearly 100 countries, ASH is the world’s largest professional society serving both clinicians and scientists around the world who are working to conquer blood diseases. Mark your calendars now to attend the world’s most comprehensive hematology event of the year!

We have received your application for a housing request. Kindly revert with more specifics about your housing preference (Dates, nightly budget, Number of guests and rooms required etc) and we will be able to suggest a few available options.

I remain attentive to your response.

Regards,

[...]

Events and Housing Coordinator”

The same email message also contains the Complainant's AMERICAN SOCIETY OF HEMATOLOGY and design trademark.

The text and composition of the email message indeed appears as designed to impersonate the Complainant and explicitly refers to its 2023 annual meeting. If recipients of such messages decide to engage with the Respondents, it can be expected that they would transmit personal data and financial information not to the Complainant, but to unrelated third parties, which may put them at risk. The Respondents do not deny the Complainant's statement that they have not been authorized by it to carry out any services in relation to the registration and accommodation of participants to its annual conference, and there is no evidence to support a different conclusion.

Taking all the above into account, the Panel finds that the Respondents have indeed used the disputed domain name <2023ash.org> in an attempt to impersonate the Complainant. As discussed in section 6.1 above, the two Respondents are likely related or under common control, and given all the similarities between them and the two disputed domain names, it can be presumed that the other disputed domain name is intended to be used in the same way.

In addition, the disputed domain names currently resolve to parked webpages of the Registrar, containing various PPC links. As discussed in section 2.9 of the [WIPO Overview 3.0](#), applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. In view of the circumstances of this case, there is no basis to conclude that the use of the disputed domain names for parked webpages containing PPC links is not intended to capitalize on the reputation and goodwill of the Complainant's ASH trademark.

Taking all the above into consideration, the Panel accepts that the Complainant's *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names is confirmed by the evidence in the case.

Based on the available record, the Panel therefore finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the available record, the Panel notes that the Complainant has used the ASH trademark for decades and has wide international presence, activities and membership, that the composition of the disputed domain names refers to the Complainant's 2023 annual meeting, and that the Respondents have failed to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain names.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation and phishing activities) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Here, the evidence shows that the Respondents have used the disputed domain name <2023ash.org> to transmit fraudulent emails impersonating the Complainant in an attempt to sell their services and possibly to collect personal data and financial information. This evidence has not been disputed by the Respondents, and they have not brought forward any plausible explanation of their actions. The circumstances of the case

also support a conclusion that the other disputed domain name <23ash.org> must have been intended for the same purpose. The current use of the disputed domain names for parked webpages containing PPC links only confirms the intent to receive financial gain.

Having reviewed the record, the Panel therefore finds that the disputed domain names have been registered and used in bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 names <2023ash.org> and <23ash.org> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: December 29, 2023