

ADMINISTRATIVE PANEL DECISION

SonicWall, Inc. v. John Edward Collins, Small
Case No. D2024-0291

1. The Parties

Complainant is SonicWall, Inc., United States of America (“United States” or “U.S.”), represented by SafeNames Ltd., United Kingdom.

Respondent is John Edward Collins, Small, United States.

2. The Domain Name and Registrar

The disputed domain name <sonicwall.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 25, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 27, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on March 19, 2024. 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 is a cybersecurity company. Complainant owns the following trademark registrations relevant to this matter:

- SONICWALL, United States, Registration No. 3219615, registered on March 20, 2007 in Class 09;
- SONICWALL, European Union, EUTM Registration No. 001409424, registered on October 23, 2001, in Classes 09, 38, 42;
- SONICWALL, Australia, Registration No. 816933, registered on December 10, 1999 in Class 09; and
- SONICWALL, New Zealand, Registration No. 737210, registered on April 20, 2006 in Class 09.

Collectively, the registered trademark rights in the SONICWALL trademarks are referred to herein as the "SONICWALL Mark."

The Domain Name was registered on September 27, 2023. At the time of filing the Complaint, the Domain Name did not resolve to an accessible website, but evidence was provided reflecting that it was used to send emails claiming to be from an accounts receivable manager of Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

As background, Complainant is a cybersecurity company that offers Internet appliances for content control and network security. Complainant contends that it was founded in 1991 and is now recognized as a market leader with over 1,600 employees and 500,000 customers. Complainant asserts that notable events include its acquisition by Francisco Partners and Elliott Management for over USD 2 billion in 2016 and a partnership with Exertis for security services. Complainant asserts that it holds registered trademarks for the SONICWALL Mark in various countries and utilizes this trademark in its logo. Complainant further asserts that it has invested significant resources in promoting and protecting its intellectual property.

With respect to the first element of the Policy, Complainant asserts that the Domain Name is confusingly similar to Complainant's SONICWALL Mark due to its typosquatting nature, which is aiming to capitalize on user mistakes in typing.

With respect to the second element of the Policy, Complainant alleges that Respondent registered the Domain Name to use as an email address to perpetrate a fraudulent scheme. Specifically, Complainant provided evidence that Respondent sent emails impersonating an accounts receivable manager of Complainant. Complainant concludes that this proves that Respondent had no legitimate interests in the Domain Name.

With respect to the third element of the Policy, Respondent is accused of registering and using the domain name in bad faith, exploiting the goodwill and recognition associated with the SONICWALL Mark for fraudulent activities such as phishing emails. The inclusion of an extra letter "i" in the domain name is asserted as an attempt to confuse users for commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Although Respondent defaulted, to succeed in this proceeding, paragraph 4(a) of the Policy requires Complainant to prove its assertions with evidence demonstrating:

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

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); and see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows:

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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview, section 1.2. On this point, Complainant has provided evidence that it is the owner of multiple registrations for the SONICWALL Mark. The Panel also finds the mark is recognizable within the Domain Name and that the Domain Name could be a typo version of the SONICWALL Mark. Accordingly, the Domain Name is confusingly similar to Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. Rights or Legitimate Interests

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy¹ or otherwise.

¹ The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: "(i) before any notice to you of the dispute, your use of, or demonstrable preparations

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name and is, instead, known as John Edward Collins. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name, which adopts the Complainant's SONICWALL Mark in furtherance of Respondent's fraudulent scheme to impersonate Complainant. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) ("the Panel notes that the respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name.")

The Panel finds that the purpose of registering the Domain Name was to engage in fraud, which is not a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."); see also, *Startup Group v. Whois Agent, Domain Protection Services, Inc. / Dominique Geffroy*, WIPO Case No. [D2020-3303](#) (finding an employment offer scam to be an example of use of a domain name for the illegitimate purpose of impersonating the complainant in the furtherance of a fraudulent scheme).

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Here, the evidence shows that Respondent registered the Domain Name to perpetrate a fraudulent scheme. Complainant's SONICWALL Mark was intentionally chosen when the Domain Name was registered with the intent to impersonate Complainant and its accounts receivable manager for the purpose of engaging in a fraud seeking the wiring of funds from at least one company that thought they were dealing with Complainant. Knowledge of Complainant's business and its SONICWALL Mark is established by virtue of this scheme where Respondent has inserted itself into communication with an apparent customer of Complainant, claimed to be accounts receivable manager of Complainant, provided a link to Complainant's real website in the email, used Complainant's real domain name (<sonicwall.com>) in the email address of the fake accounts receivable manager and started this scheme on the date that the Domain Name was registered.

In light of the evidence demonstrating clear fraudulent use of the Domain Name, there could be no other legitimate explanation except that Respondent intentionally registered the Domain Name to cloak its actions and deceive recipients into believing the emails were from Complainant. The Domain Name does not appear to have been registered for any other purpose as the Domain Name does not resolve to an active website. Such activity constitutes a disruption of Complainant's business and also establishes bad faith registration and use. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) In addition, registering a domain name with false contact details is commonly held to be bad faith under the Policy. See *Hermes International v. Jack Yong*, WIPO Case No. [D2017-1959](#) ("the fact of a non-existent postal address is difficult to explain"); *TBWA Worldwide, Inc. v. Karim Bendali*, WIPO Case No. [D2019-1932](#) (the postal address revealed by the Registrar was not accurate).

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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are 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."

The use of the Domain Name to conduct fraud constitutes a disruption of Complainant's business and also establishes bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (Finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) As discussed above, Respondent used several other indicia of Complainant in addition to the Domain Name when communicating with a third party with the fraudulent purpose of misleading the recipient of the emails into believing they were communicating with an employee of Complainant. In light of the actions undertaken by Respondent, it is inconceivable that Respondent coincidentally selected the Domain Name without any knowledge of Complainant. See e.g., *Arkema France v. Steve Co., Steve Co Ltd.*, WIPO Case No. [D2017-1632](#).

Moreover, it does not matter that a website was not resolving from the Domain Name. [WIPO Overview 3.0](#), section 3.4. In finding a disputed domain name used only for an email scam was bad faith, the panel in *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#), pointed out that numerous UDRP panels have found such impersonation to constitute bad faith, even if the relevant domain names are used only for email communications. See, e.g., *Terex Corporation v. Williams Sid, Partners Associate*, WIPO Case No. [D2014-1742](#) ("Respondent was using the disputed domain name in conjunction with...an email address for sending scam invitations of employment with Complainant"); and *Olayan Investments Company v. Anthono Maka, Alahaji, Koko, Direct investment future company, ofer bahar*, WIPO Case No. [D2011-0128](#) ("although the disputed domain names have not been used in connection with active websites, they have been used in email addresses to send scam emails and to solicit a reply to an 'online location'").

For the reasons set forth above, the Panel holds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy and has established that Respondent registered and is using the Domain Name in bad faith.

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 Domain Name <soniciwall.com> be transferred to Complainant.

/John C. McElwaine/

John C. McElwaine

Sole Panelist

Date: April 2, 2024