

ADMINISTRATIVE PANEL DECISION

SystemForward America, L.L.C. v. Ofir Klein
Case No. D2024-1534

1. The Parties

The Complainant is SystemForward America, L.L.C., United States of America (“United States”), internally represented.

The Respondent is Ofir Klein, United States.

2. The Domain Names and Registrar

The disputed domain names <dallaspopalock.com>, <popallock.com>, <popalockanaheim.com>, <popalockarlington.com>, <popalockaurora.com>, <popalockbaytown.com>, <popalockbronx.com>, <popalockbrooklyn.com>, <popalockcedarpark.com>, <popalockchandler.com>, <popalockchulavista.com>, <popalockcincinnati.com>, <popalockcleveland.com>, <popalockcolumbus.com>, <popalockdetroit.com>, <popalockfortworth.com>, <popalockgeorgetown.com>, <popalockgilbert.com>, <popalockglendale.com>, <popalockhenderson.com>, <popalockirvine.com>, <popalockjacksonville.com>, <popalockkansascity.com>, <popalocklasvegas.com>, <popalockleaguecity.com>, <popalockleander.com>, <popalocklosangeles.com>, <popalockmanhattan.com>, <popalockmesa.com>, <popalockminneapolis.com>, <popalockmissouricity.com>, <popalockoakland.com>, <popalockoklahomacity.com>, <popalockpasadena.com>, <popalockpearland.com>, <popalockpflugerville.com>, <popalockportland.com>, <popalockriverside.com>, <popalockroundrock.com>, <popalocksandiego.com>, <popalocksanfrancisco.com>, <popalocksantana.com>, <popalocksantonio.com>, <popalockscottsdale.com>, <popalockseattle.com>, <popalocktempe.com>, <popalockvirginiabeach.com>, and <phoenixpopalock.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 April 10, 2024. On April 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 11, 2024, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on April 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on May 23, 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.

On April 16, 2024, the Complainant requested the addition of the disputed domain name <phoenixpopalot.com>. The Registrar confirmed that this disputed domain name was also registered by the Respondent on the same day as several of the other disputed domain names. By administrative order, on May 29, 2024, the Panel gave the Complainant an opportunity to amend the Complaint accordingly, pursuant to Rules 10(a) and 10(b), followed by an opportunity for the Respondent to respond to the amendment. The Respondent did not submit a response to this amendment, and the Panel therefore accepts the addition of this disputed domain name to the proceeding, given its similarity to the other disputed domain names at issue registered by the same party in the same time period and the apparent absence of prejudice to the parties.

In a subsequent procedural order dated June 24, 2024, the Panel requested submissions concerning ownership of the trademark underlying the Complaint, giving both Parties an opportunity to reply. The Complainant furnished such information, and the Respondent did not comment.

4. Factual Background

The Complaint was initially filed in the name of “Don Marks, CEO of SystemForward America, Inc.,” located in Lafayette, Louisiana, United States. Based on the additional information furnished in reply to the Panel’s procedural order, and confirmed by consulting the online database of the United States Patent and Trademark Office (“USPTO”), the Panel finds that SystemForward America, Inc., a Louisiana corporation of which Mr. Marks was CEO, registered the POPALOCK and POP-A-LOCK service marks in question, which are described below, for use in its business. These registrations were subsequently assigned in 2019 to SystemForward America L.L.C., a Louisiana limited liability company that succeeded by merger to the business of SystemForward America, Inc. Mr. Marks serves as agent and manager of the successor company and filed the Complaint and amended Complaint on its behalf. Given these facts, the Panel refers hereafter to “SystemForward America L.L.C.” as the Complainant, and the case caption has been amended accordingly.

The Complainant provides automotive and residential locksmith services, chiefly through franchisees, under the POPALOCK and POP-A-LOCK brand. The Complainant’s website at “www.popalock.com” describes a training and franchising program for locksmiths in the United States, Canada, and Australia, including consulting services to assist local locksmiths with digital marketing and social media. The Complainant claims that its franchisees service more than 4,500 communities.

The Complainant holds United States trademark registrations for figurative marks including Registration Number 2597977 (registered on July 23, 2002) for a POP-A-LOCK logo depicting those words over the drawing of a car with open doors, for vehicle door unlocking services in international class 42. The Complainant also obtained United States Trademark Registration Number 4700978 (registered on March 10, 2015) for POPALOCK as a word mark for emergency roadside assistance and locksmithing services, including fabricating keys and locks and opening vehicle doors, in international classes 37, 40 and 45.

The 48 disputed domain names, typically consisting of the name “popalock” combined with the name of a city in the United States, were all registered with the same Registrar to the same individual, Ofir Klein, an individual showing an address in the State of New York, United States. With one exception, the disputed domain names were all registered over a short period of time: April 12, April 30, May 6, May 12, May 18, May 30, and July 11, 2022. The exception is the disputed domain name <popallock.com>, which does not have a geographic reference and was registered on August 8, 2018. It was used for a website advertising emergency vehicle and home locksmithing services, as shown in screen captures from the Internet Archive’s Wayback Machine. The other disputed domain names also typically resolved or redirected to websites (the “Respondent’s websites”) advertising such services, which compete with those offered by the Complainant and its franchisees. For some of the disputed domain names, such as <phoenixpopalot.com>, there is no screen capture of an associated website. At the time of this Decision, the disputed domain names no longer resolve to active websites, but a list of redirects attached to the Complaint and screenshots either attached to the Complaint or found on the Wayback Machine show that the Respondent’s websites regularly used the “POP A LOCK” label throughout the website content, along with text and images advertising services virtually identical to those advertised on the Complainant’s website.

The Parties here were involved in a similar proceeding in 2024, *SystemForward America, Inc. v. ofir klein*, WIPO Case No. [D2023-4955](#). There, the same Respondent used the domain name <austinpopalock.com> for “a website offering various locksmith services, including automotive locksmith services”. The panel ordered the transfer of that domain name, finding that it was confusingly similar to the Complainant’s POPALOCK and POP-A-LOCK marks and that the Respondent had no rights or legitimate interests in the domain name. The panel concluded that the Respondent registered and used the domain name in bad faith, falsely suggesting a connection with the Complainant.

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.

Notably, the Complainant contends that the disputed domain names are all confusingly similar to its registered POPALOCK and POP-A-LOCK trademarks, in which the Respondent has no rights or legitimate interests, and that it is bad faith to register and use such disputed domain names for a competing business, and to continue to maintain them after a recent UDRP decision finding bad faith for a similar domain name held by the same Respondent.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. In the UDRP proceeding cited above involving the domain name <austinpopalock.com>, which the Respondent registered two months prior to most of the disputed domain names in this proceeding and used similarly, the Respondent also did not submit a response but said in emails (cited in the decision) that the Respondent was trying to avoid making its website “look like a pop-a-lock”. The Respondent protested further in that correspondence (without elaboration) that “[r]unning a monopoly on the name ‘pop a lock’ is illegal”.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

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

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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.

The Complainant has shown rights in respect of a trademark or service mark (here, the word mark POPALOCK and the textual element of the combined mark POP-A-LOCK) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, geographic terms or the word “all”) 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent lacks rights or legitimate interests in the disputed domain names. The 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 disputed domain names such as those enumerated in the Policy or otherwise. The Respondent has not shown, for example, that it has permission to use the mark as a franchisee or that it is commonly known by a corresponding name, or that the phrase "pop a lock" is a generic term, despite the Respondent's unsupported remark in an earlier proceeding. Where the Respondent has used the disputed domain names, it has done so only to associate them with websites advertising directly competing services that use the term both in the disputed domain names and on the website in a manner that leads to confusion as to source or affiliation. This does not reflect a use in connection with a bona fide offering of goods or services in terms of the Policy, paragraph 4(c)(i). The Panel concludes, therefore, that the Complainant has established the second element of the Policy.

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.

In the present case, the Panel notes that the Respondent was likely aware of the Complainant's mark when registering the disputed domain names. The Respondent is active in precisely the same service market (emergency vehicle and home locksmithing services) in which the Complainant advertises online and is well established on a widespread, franchised basis. The Respondent did not deny such awareness in correspondence during the prior UDRP proceeding but argued that the Complainant should not have a "monopoly" over the phrase "pop a lock", although the Respondent also claimed that it tried to avoid emulating the appearance of the Complainant's website. The Respondent is either not aware of or disregards the restrictions imposed by trademark law and the Policy, but the Respondent should be better informed following the earlier decision in a very similar UDRP proceeding between the Parties. The Respondent's former websites highlighted the "Pop a Lock" phrase incorporated in each of the disputed domain names, exploiting the reputation associated with the Complainant's mark to promote competing services. This conduct fits the example of bad faith given in the Policy, paragraph 4(b)(iv), intentionally attempting to attract Internet users to another site for commercial gain by creating a likelihood of confusion with the Complainant's mark.

Even with respect to any disputed domain names that have not resolved to an active website, as per the evidence submitted by the Complainant, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of these disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

In this case, the Panel notes the distinctiveness and reputation of the Complainant's POPALOCK and POP-A-LOCK marks over more than two decades and the composition of the disputed domain names and finds, particularly in the absence of a Response, that the passive holding of some of the disputed domain names does not prevent a finding of bad faith under the Policy. The addition of geographic terms or the word "all" to a mark that is used for a widely distributed franchise network of locksmiths is either ambiguous or affirmatively suggests an association with the Complainant franchisor. It is difficult to conceive a legitimate, non-infringing use for these disputed domain names, and the Respondent has not demonstrated one.

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 <dallaspopalock.com>, <popallock.com>, <popalockanaheim.com>, <popalockarlington.com>, <popalockaurora.com>, <popalockbaytown.com>, <popalockbronx.com>, <popalockbrooklyn.com>, <popalockcedarpark.com>, <popalockchandler.com>, <popalockchulavista.com>, <popalockcincinnati.com>, <popalockcleveland.com>, <popalockcolumbus.com>, <popalockdetroit.com>, <popalockfortworth.com>, <popalockgeorgetown.com>, <popalockgilbert.com>, <popalockglendale.com>, <popalockhenderson.com>, <popalockirvine.com>, <popalockjacksonville.com>, <popalockkansascity.com>, <popalocklasvegas.com>, <popalockleaguecity.com>, <popalockleander.com>, <popalocklosangeles.com>, <popalockmanhattan.com>, <popalockmesa.com>, <popalockminneapolis.com>, <popalockmissouricity.com>, <popalockoakland.com>, <popalockoklahomacity.com>, <popalockpasadena.com>, <popalockpearland.com>, <popalockpflugerville.com>, <popalockportland.com>, <popalockriverside.com>, <popalockroundrock.com>, <popalocksandiego.com>, <popalocksanfrancisco.com>, <popalocksantana.com>, <popalocksantonia.com>, <popalockscottsdale.com>, <popalockseattle.com>, <popalocktempe.com>, <popalockvirginiabeach.com>, and <phoenixpopalock.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: July 9, 2024