

## **ADMINISTRATIVE PANEL DECISION**

The Aspen Institute Inc v. Mark Green  
Case No. D2024-2093

### **1. The Parties**

The Complainant is The Aspen Institute Inc, United States of America (“United States”), represented by ZeroFox, United States.

The Respondent is Mark Green, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <aspenInstitute.org> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 21, 2024, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 22, 2024, 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 June 13, 2024.

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 June 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2024. On July 22, 2024, the Center notified the Parties of a ten-day extension to the deadline for the Response due to an error in the mailing of the Written Notice. The Respondent did not reply by the deadline of August 1, 2024, so the Center proceeded with

Panel appointment.

The Center appointed Kathryn Lee as the sole panelist in this matter on August 28, 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**

The Complainant is an international nonprofit organization founded in 1949. The Complainant is funded by major foundations such as the Carnegie Corporation, the Gates Foundation and Ford Foundation, and has an average annual revenue of about USD 160 million. The Complainant owns a number of trademark registrations for the mark ASPEN INSTITUTE including United States Trademark Registration Number 1196464 registered on May 25, 1982, and United States Trademark Registration Number 2785888 registered on November 25, 2003.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on March 3, 2024, and as of the date of the filing of the Complaint, resolved to the landing page for the hosting company.

#### **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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark, since the only difference is the replacement of "I" in "institute" to a lower case "L" which renders the disputed domain name nearly identical to the Complainant's trademark in many fonts, and further, that this is a form of typosquatting.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. Further, the Complainant contends that there is no content that would qualify as fair use, nor any evidence that the Respondent commonly goes by the disputed domain name or operates a brand or trade name related to it. The Complainant also contends that there is an active MX record which indicates that the Respondent intends to send and receive emails from an email address generated from the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the Respondent's typosquatting shows that they are clearly aware of the Complainant and were attempting to leverage it for their own gain. The Complainant also contends that the active MX record indicates that the Respondent intends to send and receive emails from the disputed domain name, which would have a high likelihood of being attributed to official correspondence from the Complainant and thereby disrupting the Complainant's business. The Complainant also contends that it is possible that the Respondent holding the disputed domain name with the intention of selling it to the Complainant or a third party for a profit. Lastly, the Complainant contends that the Respondent's use of a privacy service is yet another evidence of the Respondent's bad faith in connection with the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Further, the disputed domain name should be considered a case of typosquatting. Here, the disputed domain name is identical to the Complainant's mark, except that a letter "i" was replaced with the a lower case "L." The two are essentially indistinguishable in many standard fonts, and especially when embedded within the disputed domain name that is composed of 14 letters altogether. Previous UDRP panels have concluded that a domain name that consists of an intentional misspelling of a trademark is considered similar to the relevant trademark for the purpose of the first element, and an example of such a misspelling is the "substitution of similar-appearing characters." See [WIPO Overview 3.0](#), section 1.9.

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 name. 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 name such as those enumerated in the Policy or otherwise.

Moreover, the inherent misleading nature of the typosquatting disputed domain name reflects the Respondent's intent to confuse Internet users, which cannot confer rights or legitimate interests upon the Respondent.

The Panel 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.

In the present case, the Panel notes that the Respondent targeted the Complainant in registering the disputed domain name. The Complainant is a well-known organization with active presence on the Internet and the disputed domain is obviously an intentional misspelling of the Complainant's name and trademark.

There was no use of the disputed domain name, but it can be speculated that the Respondent registered the disputed domain name in order to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Further, 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, the typosquatting nature of the disputed domain name, the failure of the Respondent to submit a response, the Respondent's use of a privacy service to hide his identity, and the implausibility of any good faith use the disputed domain name – a typo of the Complainant's mark – may be put, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 name <aspenInstitute.org> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: September 25, 2024