

## **ADMINISTRATIVE PANEL DECISION**

**OSCARO.COM, S.A. v. Muhammad Taimoor, SVC IT Solution**  
Case No. D2024-2214

### **1. The Parties**

Complainant is OSCARO.COM, S.A., France, represented by Nameshield, France.

Respondent is Muhammad Taimoor, SVC IT Solution, Pakistan.

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

The disputed domain name <oscaroservice.com> is registered with Hello Internet Corp (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2024. On June 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 6, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on June 6, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 6, 2024.

The Center verified that the Complaint together with 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 Respondent of the Complaint, and the proceedings commenced on June 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2024. On June 12, 2024, the Center received a communication from Respondent. However, no formal Response was filed. Accordingly, the Center notified the Parties on July 9, 2024 that it would proceed to Panel Appointment.

The Center appointed Timothy D. Casey as the sole panelist in this matter on July 16, 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 French company providing new and used automotive spare parts and accessories since 2001.

Complainant has numerous registrations for trademarks that include OSCARO (the “OSCARO Marks”) as an element of the trademarks, including:

Mark	Jurisdiction	Class(es)	Registration Nos.	Registration Date
OSCARO	France	7, 9, 11, 12	3230038	June 11, 2003
OSCARO Design	EUTM	1, 3, 4, 7, 9, 11, 12, 35, 37, 39, 40, 42	018457859	December 28, 2021
OSCARO	International	7, 9, 11, 12, 16, 35, 37	950157	August 17, 2007
OSCARO Design	International	7, 9, 11, 12, 16, 35, 37	1105585	October 27, 2011

Complainant also owns 372 domain names, including <oscaro.com> and other domain names that include the term “oscaro” and associated websites.

The disputed domain name was registered on December 5, 2023, and at the time of filing the Complaint resolved to a website providing advertising for a variety of goods and services. MX servers for the disputed domain name were configured to support email.

On June 12, 2024, the Center received a communication from Respondent indicating that Respondent wanted to “solve the problem with you,” that Respondent operated the “website (oascaroservice.com) in the United Arab Emirates,” and that “[y]our Company claims this copyright trademark and your business is not running in the UAE Country,” and offering to sell the disputed domain name for USD 5,000.

#### 5. Parties’ Contentions

##### A. Complainant

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

Notably, Complainant contends it has rights in the OSCARO Marks as evidenced by the facts above. Complainant contends the disputed domain name incorporates in its entirety the OSCARO Marks and is therefore confusingly similar to the OSCARO Marks. Complainant asserts that Respondent’s use of the term “service” in the disputed domain name and a generic Top Level Domain (“gTLD”) does not prevent a likelihood of confusion between the disputed domain name and the OSCARO Marks.

Complainant contends that Respondent is not identified in the Whois database by the disputed domain name and is therefore not commonly known by the disputed domain name. Respondent is not known by Complainant’s name or mark and is not affiliated with or authorized by Complainant to use the OSCARO Marks. Complainant contends that Respondent has no rights or legitimate interests in the disputed domain name and has not been licensed or authorized to use the OSCARO Marks or to apply for registration of the disputed domain name. Complainant contends that Respondent’s use of the disputed domain name in association with a website for posting online advertisements does not confer rights or legitimate interests in the disputed domain name.

Complainant contends the disputed domain name was registered and has been used in bad faith by Respondent. Complainant contends that Respondent was aware of the OSCARO Marks and registered the disputed domain name with that knowledge. Complainant states that Respondent’s website, for posting online advertisements, attempts to attract Internet users by creating a likelihood of confusion with the OSCARO Marks and therefore obtains commercial gain from such use. Complainant further contends that

the disputed domain name has been configured for MX records thereby suggesting it may be actively used for email, which is further evidence of bad faith.

## **B. Respondent**

Respondent did not reply to 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 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.

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 entirety of the OSCARO Marks are reproduced 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.

Although the addition of other terms here, "service," may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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. Respondent merely claims that Complainant is not operating in Respondent's jurisdiction but does not offer any explanation as to why it chose the disputed domain name (which it has in any event offered to sell).

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 Respondent has registered the disputed domain name and used Complainant's OSCARO Marks to create a website that intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's marks. While Respondent notes that it is willing to resolve problems associated with the disputed domain name, Respondent comments about Complainant's lack of business in UAE and its offer to sell the disputed domain name for USD 5,000 does not refute Complainant's contentions in any manner. Moreover, despite being aware of and participating in this proceeding, the Panel notes Respondent has not attempted to dispute Complainant's claims or provide any explanation for the registration or use of the disputed domain name.

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.

The Panel finds that 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 <oscaroservice.com> be transferred to Complainant.

*/Timothy D. Casey/*

**Timothy D. Casey**

Sole Panelist

Date: August 1, 2024