

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. Mikel Fields
Case No. D2024-2769

1. The Parties

Complainant is Asurion, LLC, United States of America (“U.S.”), represented by Adams and Reese LLP, U.S.

Respondent is Mikel Fields, U.S.

2. The Domain Name and Registrar

The disputed domain name <asurionprotectionplans.com> is registered with GoDaddy.com, LLC (“Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on July 8, 2024. On July 9, 2024, the Center transmitted by email to Registrar a request for registrar verification in connection with the disputed domain name.

On July 10, 2024, Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from that in the Complaint (e.g., the Complaint identified a private registration with Domains By Proxy, LLC as Respondent) and indicating that although the registration was set to expire during the pendency of this proceeding, it would remain locked¹. The Center sent an email communication to Complainant on July 11, 2024, providing the registrant and contact information disclosed by Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 16, 2024 adding “Mikel Fields” as Respondent.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (“Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”).

¹ Following a July 24, 2024 email exchange between the Center and Registrar, the Center advised the parties, by email on July 25, 2024 that the Registrar had confirmed that the registration would not expire during this proceeding.

The Panel determines that “Mikel Fields” is the appropriate Respondent. See Rules, paragraph 10 and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.4.5 (in cases involving a privacy service, Panel has discretion to determine appropriate respondent).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on July 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 16, 2024. In response to the notification of default, Respondent sent several informal communications to the Center.

In response to the notification of default, Respondent sent informal email communications to the Center:

- An August 16, 2024 email message replying to the Center’s notification of default stating that no offer buy the domain name had been made and “I purchased this as my right to make a blog website and use my freedom of speech.”
- Two August 19, 2024 email messages replying to the Center’s acknowledgement that Respondent’s August 16 message had been forwarded to Complainant, the first inviting an offer to buy the disputed domain name and stating that his “www.asurionprotectionplans.com” website would go live on August 28, 2024, including a deadline for response, and the second correcting the deadline.

During the pendency of the proceedings, the Center also received several unsolicited communications from Complainant, which are discussed below.

The Center appointed Debra J. Stanek as the sole panelist in this matter on August 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.

4. Factual Background

Complainant offers insurance, technology, mobile phone replacement and protection plans, configuration, technical support, IT consultation, and related products and services. It has locations throughout the world, in the Americas, Europe, Australia, and Asia.

Complainant has used the ASURION mark since 2001 and owns registrations for the mark in the U.S. and elsewhere, including:

- U.S. Registration No. 2,698,459 for marketing services relating to wireless device services, equipment and repair, registered March 18, 2003.
- U.S. Registration No. 4,179,272 for, among other things, protection services relating to wireless and mobile devices, registered July 24, 2012.

Complainant also owns and operates a website at <asurion.com>.

The disputed domain name was created on August 2, 2023. At the time the Complaint was filed and as of the time of this decision, it resolves to a parking page showing pay-per-click links, including at various times links labelled “wireless plans”, “wireless phone plans”, and “phone claim.”

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.

In particular:

- The disputed domain name includes Complainant's ASURION mark in its entirety, followed by the generic phrase "protection plans", which suggests that the domain name is associated with Complainant's device protection plans.
- There is no evidence Respondent is known by the disputed domain name, and Complainant has never authorized Respondent to use its ASURION mark.
- Given the fame of Complainant's mark prior to creation of the disputed domain name, no bona fide use is reasonable.
- Use of the disputed domain name for a commercial parking page that generates revenue through pay-per-click links associated with the services offered by Complainant under the ASURION mark is not a legitimate noncommercial or fair use.
- Respondent's profile on third party site LinkedIn suggests that he operates a mobile phone repair business, making it implausible that he would not be aware of Complainant and its mark, and demonstrates that the disputed domain name was registered primarily to disrupt the business of a competitor.
- Complainant's counsel sent a message, through the Registrar's contact form, indicating that the disputed domain name infringed on a trademark or violated local laws or regulations, but received no response.

B. Respondent

Respondent did not submit a response to the Complainant, but did send the messages referenced above.

6. Discussion and Findings

As noted above, Complainant sent three unsolicited supplemental submissions to the Center. Neither the Rules nor the Supplemental Rules provide for filing any submission other than a complaint and response except in response to request by the Panel under Paragraph 12 of the Rules. Consistent with the view of other panels, the Panel is of the view that a supplemental submission is appropriate only in exceptional circumstances and that the party submitting (or seeking to submit) it must explain its relevance and the circumstances that prevented the information being provided in the complaint or response, as applicable. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.6.

Here, Complainant has apparently reflexively forwarded communications from Respondent without articulating any circumstances that made the submissions appropriate and asserting (incorrectly in one instance²) that each constituted evidence of bad faith registration and use. Only the second of the

² In particular, the Panel disagrees that the inquiry "Does someone want to buy this domain from me?" is, without more, evidence of bad faith under Paragraph 4(b)(i).

submissions, sent July 25, 2024, added a fact that could not have reasonably been anticipated. It forwarded Respondent's offer to sell the disputed domain name for "10,000" or to use as "a freedom of speech blog page." The Panel will consider only that submission; however, as can be seen from the discussion below, it does not impact the Panel's assessment.

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. See [WIPO Overview 3.0](#), section 1.2.1.

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

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 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.

The Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel is mindful that Respondent's communications expressed an intent to use the disputed domain name for a website that critiques Complainant and its business practices. However, Respondent's assertions are not accompanied by any evidence (for example, evidence of the type listed in [WIPO Overview 3.0](#), section 2.2) and were provided, without explanation, only after the notification of default. Accordingly, the Panel finds Respondent has not rebutted Complainant's prima facie showing.

The Panel finds the second element of the Policy has been established.

C. Registered and Used 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 for purposes of paragraph 4(a)(iii) of the Policy, 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's mark long predates the disputed domain name. Given the distinctiveness of the ASURION mark, Respondent's creation of a domain name that combines ASURION

with a phrase - “protection plans” – that relates to Complainant’s ASURION services, and the lack of any evidence of good faith registration and use, the Panel finds the third element of the Policy has been established.

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 <asurionprotectionplans.com> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: September 6, 2024