

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. Charles Reed
Case No. D2024-2937

1. The Parties

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

Respondent is Charles Reed, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 17, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 19, 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 July 23, 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 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.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on August 29, 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, a limited liability company organized in the state of Delaware, United States, offers insurance, technology, mobile phone replacement and protection plans, configuration, technical support, IT consultation, and related products and services under the ASURION trademark, and has historically offered roadside services under the ASURION trademark. Complainant has used the ASURION mark since at least as early as 2001. Complainant advertises and sells its products and services through its “www.asurion.com” website and related websites, as well as through print media and other advertising and promotional campaigns. Complainant has served over 280 million consumers worldwide, and its services are made available by retailers worldwide, including some of the largest retailers in the United States. Complainant has fourteen locations in North and South America, two locations in Europe, two locations in Australia, and ten locations in Asia. Complainant’s website at “www.asurion.com” receives over 7.9 million visits annually, and Complainant’s website at “www.phoneclaim.com” (which also prominently displays the ASURION mark) receives approximately 40 million visitors per year. Complainant and its licensees have registered a substantial number of ASURION-formative domain names in addition to <asurion.com>.

Complainant is the owner of registrations for the word trademark ASURION on the Principal Register of the United States Patent and Trademark Office (USPTO), including: (1) registration number 2,698,459, registration dated March 18, 2003, in international classes (IC) 35 and 36, covering cooperative services for repair and replacement of wireless devices, and emergency roadside services; (2) registration number 4,997,781, registration dated July 12, 2016, in ICs 35, 36, 37 and 42, covering cooperative services for repair and replacement of various electronic and household products, providing warranties on various electronic and household products, repair and replacement of various electronic and household products, and providing technical and customer support services, as further specified, and; (3) registration number 4,179,272, registration dated July 24, 2012, in ICs 9, 42 and 45, covering downloadable computer software for mobile devices, remote protection services for wireless communications devices and related computer software development, and remote protection and monitoring services for wireless device devices, as further specified.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to that verification, the disputed domain name was registered on June 23, 2023. There is no indication on the record of this proceeding that any party other than Respondent has owned or controlled the disputed domain name since its initial registration.

Respondent has used the disputed domain name in connection with a pay-per-click (PPC) parking page with sponsored links (e.g., “roadside assistance”, “emergency roadside assistance”, and “roadside assist”) directing Internet users to service providers competitive with those of Complainant. In addition, at a subdomain of the disputed domain name, <pay.asurionautoprotect.com>, Respondent has posted an online payment form (including elements for entry of credit card information) that may be associated with a scheme to defraud Internet users that make use of the disputed domain name. Respondent provided manifestly false contact information in its registration of the disputed domain name, and there is no evidence on the record of this proceeding of any activity, commercial or otherwise, undertaken by Respondent other than that described above.

There is no evidence on the record of this proceeding of any commercial or other relationship between Complainant and Respondent.

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 that it is the owner of rights in the trademark ASURION and that the disputed domain name is identical or confusingly similar to that trademark.

Complainant alleges that Respondent lacks rights or legitimate interest in the disputed domain name because: (1) Respondent is not known by the disputed domain name; (2) Respondent has not been licensed or otherwise authorized by Complainant to use its trademark in the disputed domain name; (3) Respondent is not using the disputed domain name in connection with a bona fide offering of good source services or in a legitimate non-commercial or fair manner; (4) Respondent appears to be using the disputed domain name for an unlawful phishing scheme, and; (5) in light of the well-known and distinctive character of Complainant's trademark, there is no bona fide or legitimate use of that trademark that Respondent might reasonably make.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) it is implausible that Respondent was unaware of Complainant's trademark when it registered and began using the disputed domain name; (2) by associating the disputed domain name with a PPC website with links associated with Complainant and its line of business, Respondent is intending for commercial gain to take advantage of Complainant's goodwill and reputation; (3) Respondent appears to be using the disputed domain name in furtherance of an unlawful phishing scam, and such unlawful use of the disputed domain name clearly demonstrates bad faith.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. Courier delivery to the address used by Respondent in its record of registration could not be completed because Respondent had provided apparently false information. It appears that the email addresses provided by Respondent in its record of registration are non-operational. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

(i) the disputed 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 disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

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.

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 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. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "autoprotect", 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 Complainant, panels have recognized that proving 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 Respondent. As such, where, as here, Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). As Respondent has failed to come forward with such relevant evidence, 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.

It is well established that associating a disputed domain name with a PPC parking page with links to service providers competitive with those of a complainant, as with Complainant here, does not establish rights or legitimate interests.

Panels have held that the use of a domain name for illegal activity, here claimed phishing and impersonation of Complainant for purposes of deceptively gathering credit card information from Internet users, can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 must have been aware of Complainant and its trademark when it registered and used the disputed domain name as Complainant's trademark is distinctive and well known and is readily identified by a routine Internet search.

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 Respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Respondent's use of the disputed domain name in connection with a PPC parking page that includes links to service providers competitive with Complainant and its services indicates that Respondent intentionally for commercial gain sought to create Internet user confusion as to Complainant acting as source, sponsor, affiliate or endorser of Respondent's website. This constitutes bad faith conduct by Respondent within the meaning of paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity, here claimed phishing and impersonation of Complainant for purposes of deceptively gathering credit card information from Internet users, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under paragraph 4(b) of the Policy.

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 <asurionautoprotect.com> be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: September 20, 2024