

ADMINISTRATIVE PANEL DECISION

American Heart Association, Inc. v. Amman Dusad, Medconn
Case No. D2024-4051

1. The Parties

The Complainant is American Heart Association, Inc., United States of America (“U.S.”), represented by Scheef & Stone, LLP, United States of America.

The Respondent is Amman Dusad, Medconn, India, represented by VSK Legal, India.

2. The Domain Name and Registrar

The disputed domain name <ahascientificsessions.org> (the “Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2024. On October 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 3, 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 Individual) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 amended Complaint on October 4, 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 the Respondent of the Complaint, and the proceedings commenced on October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Response was filed with the Center on October 29, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on November 1, 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 was founded in 1924 for promoting awareness of, providing educational conferences and resources for consumers, and funding and promoting research related to cardiovascular health.

The Complainant owns U.S. Trademark Registration No. 1091140, a standard character word mark of "AMERICAN HEART ASSOCIATION," registered on May 9, 1978, and U.S. Trademark Registration No. 2072127, a standard character word mark for "AMERICAN HEART ASSOCIATION," registered on June 17, 1997.

The Complainant has used the acronym AHA to refer to itself for many years.

The Complainant organises and provides under the name "SCIENTIFIC SESSIONS," a major annual educational conference in relation to the goods and services it provides in the field of cardiovascular health. It has done so annually since at least 1986.

The Disputed Domain Name was registered on May 12, 2017. It resolves to a website (the "Respondent's Website") which purports to allow visitors to register for the Complainant's Scientific Sessions conference.

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.

The Complainant claims that as a result of its extensive use of the acronym AHA to describe itself, and its use of the term "Scientific Sessions" in relation to its annual educational conference, it has common law trademark rights in those terms.

The Disputed Domain Name is confusingly similar to the AHA and SCIENTIFIC SESSIONS trademarks as it simply combines those terms.

The Respondent has no rights or legitimate interests in the term AHA or Scientific Sessions. By using the Disputed Domain Name in connection with a website that purports to offer booking services for the Complainant's conferences the Respondent is not engaged in a bona fide offering of goods or services under the Policy – and, therefore, the Respondent cannot demonstrate rights or legitimate interests under Paragraph 4(c)(i) of the Policy.

It says the Disputed Domain Name explicitly uses each of the Complainant's trademarks to cause confusion, deceive, and defraud the consuming public, which includes medical professionals, scientists, and the like that seek to register for and attend the Complainant's official Scientific Sessions Conference, such as the upcoming American Heart Association's Scientific Sessions 2024. The Complainant alleges that the Respondent's sole purpose is to utilize the Complainant's trademarks to mislead and divert customers to its website and away from the Complainant's website, while financially defrauding consumers and providing no actual registration for the Complainant's Scientific Sessions Conference or travel accommodations as advertised.

The Complainant points out other respects in which the Respondent's Website is misleading such as use of a logo very similar to the Complainant's logo.

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith.

B. Respondent

It is convenient to note at this point that the Response has been prepared on the assumption that the Policy cannot apply to unregistered trademark rights and, as the Complainant has no registered trademarks for either of the terms AHA and Scientific Sessions, then the Complaint is fatally flawed and cannot succeed. As this assumption is entirely incorrect (see below) much of the Response is irrelevant. The Panel does not intend to repeat everything the Respondent has said which relates this incorrect assumption.

The Response goes on to say the acronym AHA is not distinctive and that the Complainant has not shown it has goodwill in it.

The Respondent says the Complainant uses the domain name <professional.heart.org> which is not at all similar to the Disputed Domain Name and hence, the question of confusion/ deceptive similarity, does not arise in the first place.

The Respondent says its website has a disclaimer stating that: "All product names, trademarks, and registered trademarks mentioned on this website are the property of their respective owners. The use of these names, trademarks, and brands does not imply endorsement by the respective owners". The Respondent says this makes abundantly clear that there is no intent of unfair usage of any trademark(s), and only goes to clarify the confusions, if any, in the minds of the visitors of the page.

So far as bad faith is concerned, the Respondent largely repeats its arguments about unregistered trademark rights. The Respondent then goes on to say that its intent in acquiring the Disputed Domain Name, "is to only raise awareness in regard to any and all informative gatherings, to ensure that the participation of the public in such gatherings, only multiply and benefit the society at large".

The Respondent says its logo is different to that of the Complainant's.

The Response does not, so far as the Panel can see, deal with the central allegation that the Respondent's Website is being used to fraudulently obtain money from would be attendees who think they are purchasing tickets or booking accommodations via a website provided by the Complainant.

6. Discussion and Findings

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Respondent is simply wrong to assume the Policy does not apply to unregistered trademark rights. Numerous previous decisions under the Policy have established that unregistered trademark rights, if

established by evidence, can be relied upon. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") addresses this issue as follows:

"1.3 What does a complainant need to show to successfully assert unregistered or common law trademark rights?

"To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services.

Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.

(Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services.)

Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning."

In the present case given the evidence the Panel has no hesitation in concluding the Complainant has established that the Complainant has acquired unregistered trademark rights in both the terms AHA and SCIENTIFIC SESSIONS. By way of example, publicity material for the 2024 conference is prominently labelled both "AHA24" and "Scientific Sessions 2024". The Complainant has also provided evidence of use of the SCIENTIFIC SESSIONS trademark for its conferences as early as November of 1986 and has claimed use of the acronym AHA since "at least the 1980s" as well. These terms amount to trademarks in which the Complainant has rights.

In addition, were there any doubt about the Complainant's unregistered trademarks, it is relevant that the Respondent itself thought it worthwhile to use these terms in the Disputed Domain Name. As the panel noted in *NEOVIA, Hi-Nutrients International Ltd. v. WhoisGuard Protected, WhoisGuard, Inc. / Deniz Hus* WIPO Case No. [D2019-0600](#): "The Respondent did not provide arguments to the contrary; rather, in the Panel's view, the Respondent cannot dispute that, given it deliberately targeted the source identifier in an apparent fraud attempt. Such targeting of the Complainants is sufficient to establish limited trademark rights in the HI-NUTRIENTS trademark for the purposes of the Policy. See *PEMF Supply, LLC v. Domain Administrator, See PrivacyGuardian.org / Gregory Lewis, American Healthcare Foundation*, WIPO Case No. [D2019-0235](#) ("[...] in light of the use of the PEMF SUPPLY mark that was submitted in this proceeding, the targeting of Complainant by Respondent is sufficient to establish Complainant has limited unregistered trademark rights in the PEMF SUPPLY mark for the purposes of the Policy"). See also *Greenspring Associates, Inc. v. Lisa Knowles, Victoria capital pty*, WIPO Case No. [D2019-0265](#): "To that extent, Complainant has in fact used the domain name <gspring.com> as a source identifier for its services. One person who cannot dispute that fact is Respondent, who (as is discussed below) deliberately targeted that source identifier (<gspring.com>) to attempt to perpetrate a fraud via confusion. The Domain Name differs from the GSPRING mark only to the extent that the Domain Name replaces the "i" with an "l". The visual similarity between the "i" and the "l" – especially when the font is small – is obvious".

Furthermore the Respondent's website uses the terms AHA and SCIENTIFIC SESSIONS as source identifiers to refer to the Complainant and its conference.

The Panel finds the Disputed Domain Name is confusingly similar to the AHA and SCIENTIFIC SESSIONS trademarks – it simply combines the two marks into one character string.

It is also well established that the Top-Level Domain (“TLD”), in this case “.org”, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#) at section 1.11.1.

The fact that the Complainant uses <heart.org> as its principal domain name and that is not similar to the Disputed Domain Name is wholly irrelevant. The Policy requires that the Disputed Domain Name be identical or confusingly similar to a trademark, not a domain name.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

(i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the AHA or SCIENTIFIC SESSIONS trademarks. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Name. The Response fails to address the central fact that the Respondent’s Website dishonestly masquerades as being that of the Complainant and then purports to sell tickets for attendance at the Complainant’s conference. That cannot give rise to a legitimate interest.

Accordingly, the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

In the present circumstances, the fact that the Disputed Domain Name dishonestly masquerades as being that of the Complainant and then purports to sell tickets for attendance at the Complainant’s conference leads the Panel to conclude the registration and use were in bad faith.

By way of example, the Respondent’s Website landing page carries the statement “A-H-A Sessions 2024. Pres sessions Symposia & Early Career Day November 15 2024. Scientific Sessions November 16 -18, 2024. McCormick Place Convention Centre Chicago Illinois” and under this is a button “Registration” which leads to a page which purports to allow registration for the Complainant’s Conference. The Respondent has

not even attempted to explain how this could be a good faith use, nor has the Respondent addressed the Complainant's central allegation that the Respondent's Website is fraudulent and dishonest.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances the Panel agrees with the Complainant that factor (iv) applies as the Respondent was seeking to achieve commercial gain by diverting customers looking for details about the Complainant's Scientific Sessions conference to an unauthorized website which purports to be that of the Complainant and which purports to sell tickets for attendance at the Complainant's Scientific Sessions conference.

The Panel also notes that although the Respondent has filed a Response it has not provided anything more than a bare assertion that its actions are not within the terms of paragraph 4(b) of the Policy, and has not presented any sensible explanation for its behaviour. No sensible explanation can exist given the nature of the Respondent's Website. The disclaimer the Respondent relies on does nothing to remove the deception which the Respondent's Website comprises.

The Panel considers the Respondent's use of a "heart" logo of similar size and colour to that of the Complainant is deliberately confusing and part of a clear attempt to present the Respondent's Website as being that of the Complainant.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <ahascientificsessions.org> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: November 15, 2024