

ADMINISTRATIVE PANEL DECISION

Asurion, LLC v. Nanci Nette
Case No. D2024-4257

1. The Parties

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

The Respondent is Nanci Nette, United States.

2. The Domain Name and Registrar

The disputed domain name <asurionmobile.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 October 16, 2024. On October 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 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 22, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on November 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

The Complainant, Asurion, LLC, has offered insurance, technology, mobile phone replacement and protection plans, configuration, technical support, IT consultation, and related products and services since at least 1994 and has used the ASURION mark since at least 2001. The 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. The Complainant has over 700 locations throughout the United States, as well as many other corporate offices, supply chain locations, and customer care and technical support centers throughout North and South America, Europe, Australia, and Asia.

The Complainant has an extensive global portfolio of trade mark registrations incorporating ASURION, including the following:

- United States Trade Mark Registration No. 2698459 in Classes 35, 36, and 37, registered on March 18, 2003;
- United States Trade Mark Registration No. 4179272 in Classes 9, 42, and 45, registered on July 14, 2012;
- United States Trade Mark Registration No. 4997781 in Classes 35, 36, 37, and 42, registered on July 12, 2016; and
- International Trade Mark Registration No. 1118997 in Classes 9, 36, and 42, designating inter alia Australia, China, Cuba, European Union, New Zealand, registered on January 11, 2012.

The disputed domain name was first registered on April 11, 2008.

According to evidence provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a pay-per-click site. At the time of issuance of this Decision, the disputed domain name continued to resolve to the same site.

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 claims that it initially owned the disputed domain name, which it used for a website advertising protection plans for mobile phones. However, the Complainant inadvertently failed to renew its registration of the disputed domain name after the due date of March 21, 2015. After the disputed domain name lapsed, the Respondent registered the disputed domain name and began using it to direct users to a commercial parking page showing pay-per-click links advertising services identical or related to those offered by the Complainant or to a third-party shopping website.

The Complainant contends that the disputed domain name registered by the Respondent is identical or confusingly similar to the Complainant's ASURION trade marks, and that the addition of the generic Top-Level Domain ("gTLD") ".com" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

Furthermore, the Complainant argues that the addition of the term “mobile” does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s ASURION mark.

The Complainant asserts that it has not authorized the Respondent to use the ASURION mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the ASURION mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

To prevail in a UDRP dispute, the first element that a complainant must prove is that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. It is widely accepted that this 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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel acknowledges that the Complainant has established rights in the ASURION trade marks in many jurisdictions around the world.

Disregarding the gTLD “.com”, the disputed domain name incorporates the Complainant’s trade mark ASURION in its entirety. Thus, the disputed domain name should be regarded as confusingly similar to the Complainant’s ASURION trade mark. The inclusion of the additional term “mobile” does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the ASURION trade mark and in showing that the disputed domain name is confusingly similar to its mark.

B. Rights or Legitimate Interests

The second element that a complainant must prove is that the respondent has no rights or legitimate interests in the disputed domain name. 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.

The Complainant asserts that it has not authorized the Respondent to use its trade mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. At the time the Complaint was filed, the disputed domain name resolved to a pay-per-click site with links relating to the Complainant's services.

There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third and final element that a complainant must prove is that the respondent has registered and is using the disputed domain name in bad faith.

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the ASURION trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Complainant's registered trade mark rights in ASURION for its products and services predate the registration date of the disputed domain name. A simple online search for the term "asurion" would have revealed that it is an established brand. [WIPO Overview 3.0](#), section 3.2.2.

The Respondent has not presented any evidence or explanation to justify its choice of the term "asurion" and the term "mobile" in the disputed domain name. Considering that the term "mobile" is directly relevant to the Complainant's business, the Panel finds it unlikely that the Respondent's selection of the terms "asurion" and "mobile" is merely coincidental.

The Panel is therefore of the view that the Respondent registered the disputed domain name with knowledge of the Complainant's trade mark rights, a finding which is supported in particular by the fact that the name includes the term "mobile" and that the Respondent registered the disputed domain name shortly after the Complainant inadvertently let its registration lapse.

In light of the foregoing, there are no plausible good faith reasons for the Respondent to have registered and used the disputed domain name. The Panel therefore finds that, by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <asurionmobile.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: December 13, 2024