

## **ADMINISTRATIVE PANEL DECISION**

Surescripts, LLC v. Hulmiho Ukolen, Poste restante  
Case No. DQA2024-0001

### **1. The Parties**

The Complainant is Surescripts, LLC of United States of America (“United States”), represented by McDermott Will & Emery LLP.

The Respondent is Hulmiho Ukolen, Poste restante of Finland.

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

The disputed domain name <surescripts-dev.qa> is registered with AEservers FZE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 7 and May 15, 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 (Jan Horak) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 20, 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 amendment to the Complaint on May 24, 2024.

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

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 24, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was June 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 2, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on July 8, 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 is a United States limited liability company. It operates a health information network, facilitating e-prescription services and the exchange of health information and medical records between healthcare organizations and pharmacies.

The Complainant is the owner of various trademark registrations which comprise or incorporate the mark SURESCRIPTS, including for example United States trademark registration number 2821535 for the word mark SURESCRIPTS, registered on March 9, 2004, in International Class 38.

The disputed domain name was registered on a date which is not apparent from the relevant Whois report. However, the Registrar states that the disputed domain name will expire on April 20, 2025. The Complainant contends on information and belief that the disputed domain name was registered on about April 20, 2024, but does not state the basis of that information and belief.

The Complainant provides evidence that the disputed domain name has resolved to a “parking page” which appears to offer pay-per-click (“PPC”) links to third-party websites, including those listed as “Healthcare Insurance”, “Refill Prescription” and “Healthcare”.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that it has traded under the SURESCRIPTS mark since 2001 and exhibits evidence of its use and promotion of the mark, as well as media and industry recognition and awards. It also refers to a podcast that it has operated for three years. It contends that its trademark has become widely known as a result of these matters.

The Complainant contends that the disputed domain name is identical or confusingly similar to its SURESCRIPTS trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its SURESCRIPTS trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant contends that, on the contrary, the Respondent has used the disputed domain name to target the Complainant’s trademark by way of PPC links to services similar to its own, and also for the purpose of a Man-in-the-Middle (“MITM”) cyber-attack against the Complainant as further described below.

The Complainant submits that the disputed domain name was registered or is being used in bad faith. It contends that its trademark SURESCRIPTS is distinctive and is not comprised of any terms in common usage in which the Respondent may have an interest. It submits that, in these circumstances, the Respondent is using the disputed domain name to divert Internet users who are looking for the Complainant to third-party commercial websites, which are not authorized by the Complainant, and which appear to offer services in the Complainant’s own areas of operation. The Complainant states that the Respondent must be assumed to obtain commercial benefit from such redirections.

The Complainant further alleges that the Respondent has used the disputed domain name to engage in an MITM cyber-fraud. It submits in particular that the Respondent has redirected traffic from the Complainant's Internet applications, and specifically its internal development portal, using proxy system settings of which the Internet user will be unaware. The Complainant exhibits evidence of the proxy settings in question and contends that the Respondent's activities in this regard must inevitably be viewed as malicious and in bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 3(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical 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; and
- (iii) the disputed domain name has been registered or is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has established that it is the owner of registered trademark rights in respect of the mark SURESCRIPTS. The disputed domain name incorporates that trademark in full, together with a hyphen and the term "dev", which additions do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 3(c) of the Policy or otherwise. Moreover, for the reasons set out below, the Panel finds that that Respondent has used the disputed domain name unfairly to target the goodwill attaching to the Complainant's trademark, which cannot give rise to rights or legitimate interests on the part of the Respondent. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered or Used in Bad Faith**

The Panel accepts the Complainant's submissions that its trademark SURESCRIPTS is distinctive in nature, and that it has become widely known (at least in the United States) in connection with e-prescription and health information services. The Respondent having offered no explanation for its choice of the disputed domain name, and the disputed domain name having been used for the purpose of PPC links relating to services similar to the Complainant's, the Panel infers that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademark and with the intention of benefitting unfairly from the commercial goodwill attaching to that trademark.

Given the distinctive nature of the SURESCRIPTS trademark in identifying the Complainant and its services, the Panel finds that the Respondent has intentionally used the disputed domain name, which is confusingly similar to the Complainant's trademark, to divert Internet users looking for the Complainant or its services to its own website, containing PPC links to services including those in the Complainant's own areas of operation. The Panel finds therefore that, by 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 trademark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 3(b)(iv) of the Policy).

Furthermore, while the Complainant's submissions and evidence concerning the use of the disputed domain name for an alleged MITM attack against the Complainant are highly technical in nature, the Respondent has not contradicted the Complainant's allegations in this regard. The Panel accepts the Complainant's submission that any such conduct on the Respondent's part can only be viewed as being malicious and in bad faith.

The Panel finds in the circumstances that the disputed domain name has been registered or is being used in bad faith.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 3(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <surescripts-dev.qa> be transferred to the Complainant.

*/Steven A. Maier/*

Steven A. Maier

**Sole Panelist**

Date: July 22, 2024