

## **ADMINISTRATIVE PANEL DECISION**

Verisure Sàrl v. RYOICHI AOKI

Case No. D2022-4813

### **1. The Parties**

The Complainant is Verisure Sàrl, Switzerland, represented by BrandIT GmbH, Switzerland.

The Respondent is RYOICHI AOKI, Japan.

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

The disputed domain name <verisure-support.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 15, 2022. On December 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 21, 2022, 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 (Whois Privacy Protection Service by MuuMuuDomain) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 22, 2022, 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 in English on December 23, 2022.

On December 22, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On December 23, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Japanese of the Complaint, and the proceedings commenced on January 3, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was January 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 24, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on January 26, 2023. 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 leading provider of professionally monitored security solutions and one of the largest home alarm providers in the world with more than 3.6 million customers in 16 countries and employs 20,000 people across the world.

The Complainant enjoys a strong online presence via its official websites and social media accounts, which have thousands of followers. Due to extensive use, advertising and revenue associated with its trademarks worldwide, the Complainant enjoys a high degree of renown around the world.

The Complainant owns numerous trademark registrations for VERISURE, both word and figurative mark, including the European Union Trade Mark registration No. 006674915 registered on March 26, 2010, and owns numerous domain names containing the trademark VERISURE, among them <verisure.com> registered since November 4, 1998.

In particular, the Complainant uses its domain names to resolve to its official website through which it informs Internet users and potential consumers about its VERISURE mark and its products and services.

The disputed domain name was registered on June 9, 2022. The disputed domain name do not resolve to any active website.

#### **5. Parties' Contentions**

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

The Complainant enjoys a strong online presence via its official websites and social media accounts, which have thousands of followers. The Complainant owns numerous trademark registrations for VERISURE, both word and figurative marks

The Complainant contends that the disputed domain name is identical to its VERISURE trademark followed by a hyphen and the term "support", which implies a close connection to the Complainant's business and activities.

The disputed domain name is therefore confusingly similar to the Complainant's VERISURE trademark.

At the time of filing of this complaint, the disputed domain name did not resolve to any active website.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

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

### 6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Japanese. Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

However, as noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. General Energy a/k/a Edison GE GEEEEGE.COM a/k/a Edison-GE and Edison Electric Corp.*, WIPO Case No. [D2006-0334](#)).

In deciding whether to allow the proceeding to be conducted in a language other than the language of the Registration Agreement, and to require the complainant in an appropriate case to translate the complaint into the language of that agreement, the panel must have regard to all “the relevant circumstances” of the case. The factors that the panel should take into consideration include *inter alia* whether the respondent is able to understand and effectively communicate in the language in which the complaint has been made and would suffer no real prejudice, and whether the expenses of requiring translation and the delay in the proceedings can be avoided without causing injustice to the parties.

According to section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), prior UDRP panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant’s mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.

The Complainant has submitted a request that the language of the proceeding be English. The disputed domain name incorporates the common English term “support” (noun) which shows that the Respondent understands and speaks English. The Complainant would have to retain specialized translation services in order to proceed in Japanese, which would impose an extra burden on the Complainant and unnecessarily delay the proceeding.

The Panel notes that the Center notified the Respondent in Japanese and English regarding the language of the proceeding and the Respondent was invited to present its objection to the proceeding being held in

English and if the Center did not hear from the Respondent by the specified due date, the Center would proceed on the basis that the Respondent had no objection to the Complainant's request that English be the language of the proceeding. The Respondent had the opportunity to raise objections or make known its preference but did not do so. The Panel further notes that the Center notified the Respondent in Japanese and English regarding the commencement of the proceeding, and the Respondent was informed that it could file a Response either in Japanese or English, but the Respondent did not send any response.

In addition, the disputed domain name is in Latin characters. The Panel also finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Japanese.

Taking all these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

## **6.2 Substantive Issues**

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

Based on the facts presented by the Complainant, this Panel finds that the disputed domain name is confusingly similar to a mark in which the Complainant has rights under Policy, paragraph 4(a)(i). The Complainant has established its rights in VERISURE through registration and use. The Panel finds that there is no doubt that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark in full, followed by a hyphen and the term "support", which does not prevent a finding of confusing similarity (see sections 1.7, 1.8, and 1.11 of the [WIPO Overview 3.0](#)).

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

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant's trademarks. The disputed domain name resolves to an inactive page.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Moreover, the Panel finds that the disputed domain name is inherently misleading (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under Policy paragraph 4(a)(ii).

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

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith and that the disputed domain name did not resolve to any active website, which constitutes passive holding. In the *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) the panel established that the registration and passive holding of a domain name which has no other legitimate use and clearly refers to the Complainant's trademark may constitute registration and use in bad faith.

The Complainant's VERISURE trademark was registered long before the registration of the disputed domain name. The Complainant has extensively promoted its products under VERISURE trademark. Also, considering the fame of the Complainant's VERISURE trademark, the Panel finds that it is most likely that the Respondent was aware of the Complainant's rights to VERISURE trademark at the time the disputed domain name was registered, indicating that such registration was made in bad faith.

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name 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 <verisure-support.com> be transferred to the Complainant.

*/Erica Aoki/*

**Erica Aoki**

Sole Panelist

Date: February 9, 2023