

DISPUTE RESOLUTION SERVICE

D00023001

Decision of Independent Expert

Aon Corporation

and

Frances Jeff

1. The Parties:

Lead Complainant: Aon Corporation
200 E. Randolph Street
Chicago
Illinois
60601
United States

Respondent: Frances Jeff
Newburyport
WV12 4RX
United Kingdom

2. The Domain Name(s):

a0n.co.uk

3. Procedural History:

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of a such a nature as to call in to question my independence in the eyes of one or both of the parties.

15 September 2020 11:33 Dispute received
16 September 2020 11:18 Complaint validated
16 September 2020 11:20 Notification of complaint sent to parties
05 October 2020 02:30 Response reminder sent
08 October 2020 09:27 No Response received
08 October 2020 09:27 Notification of no response sent to parties
12 October 2020 13:23 Expert decision payment received

4. Factual Background

4.1. The Complainant, Aon Corporation, is a leading global professional services firm providing a broad range of risk, retirement and health solutions.

4.2. The Complainant has a substantial trade mark portfolio which includes over 200 registrations worldwide for marks that incorporate the word AON. Many of these marks date back several decades.

4.3. The Complainant also owns a number of domain names including aon.co.uk and aon.com. It uses aon.com as its main website address and for the email addresses of its employees.

4.5. The Respondent, Frances Jeff, is an individual who gives an address in Newburyport which is near to Birmingham, UK.

4.6. The Respondent registered the Domain Name on 28 July 2020.

4.7. On the same day as it was registered the Domain Name was used to send an email impersonating a member of the Complainant's staff as part of a "phishing" scam. This email used the Domain Name to impersonate a member of the Complainant's staff and to provide bank details for a transfer of money that were not associated with the Complainant.

5. Parties' Contentions

Complainant's Submissions

The Complainant's submissions in its Complaint can be summarised as follows:

Rights

5.1.1. It is the registered proprietor for a number of trade marks which consist of or include the mark AON. These marks are registered worldwide and date back over a number of years;

5.1.2. It is a leading global professional services firm which services customers in 120 countries spanning a wide range of industries.

Abusive Registration

- 5.2. The Complainant submits that the Domain Name is an Abusive Registration because:
- 5.2.1. The Domain Name is being used as part of a phishing scam which aimed to secure monies being fraudulently wired to a bank account which, it is reasonable to assume, is controlled by the Respondent;
- 5.2.2. The Domain Name was used to impersonate one of the Complainant's employees using a false email which was inserted into an existing genuine email chain. This false email gave false bank details for a wire transfer to be made;
- 5.2.3. The Respondent is therefore clearly well aware of the Complainant, as it registered a domain name containing the nearly identical term, "A0N" and then used the Domain Name to impersonate the Complainant;
- 5.2.4 Using the Domain Name in connection with a phishing scheme by attempting to trick the Complainant's customer into sending payments to the Respondent's designated account clearly constitutes bad faith. The email address the Respondent used could easily be mistaken for a legitimate email address originating from the Complainant;
- 5.2.5 The Domain Name (A0N) is an exact match (within the limitations of the character set permissible in domain names) for the name or mark in which the Complainant has rights (AON).
- 5.2.6 The Complainant's mark has a reputation and the Respondent has no reasonable justification for having registered the Domain Name.
- 5.2.7 An Internet user seeing the Domain Name or a website or email that uses the Domain Name is likely to believe that the domain name is registered to, operated or authorised by the Complainant. This has in fact happened.
- 5.2.8 The email that was purportedly sent by one of the Complainant's employees was sent on a calculated basis with the intention of defrauding one of the Complainant's customers.

Respondent's Submissions

The Respondent has not provided a Response.

6. Discussions and Findings

- 6.1 Paragraph 2 of the Nominet's Dispute Resolution Service Policy ("DRS Policy") requires that the Complainant must prove, on the balance of probabilities, that:

2.1.1 The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and

2.1.2 The Domain Name, in the hands of the Respondent, is an Abusive Registration

Rights

6.2 As a first step, I must therefore decide whether the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name.

6.3 The definition of Rights in the DRS Policy is as follows:

***Rights** means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning.*

6.4 It is clear that the Complainant has Rights in the word and mark AON. The Complainant is the registered proprietor of a large portfolio of trade marks and domain names which include the mark AON and the Complainant has been using this mark in connection with its substantial business for a number of years.

6.5 The Domain Name differs only from the mark in which the Complainant has Rights by the replacement of the middle letter i.e. “O” with the number, “0”. It is clear to me that “O” and “0” look similar when included in words or domain names particularly when looked at quickly, for example as part of a domain name or email address.

6.6 I therefore find, that the Complainant has Rights in a name or mark which is identical or similar to the Domain Name.

Abusive Registration

6.7 The definition of Abusive Registration in the DRS Policy is as follows:

***Abusive Registration** means a Domain Name which either:*

- i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant’s Rights; or*
- ii. is being or has been used in a manner which has taken unfair advantage of or has been unfairly detrimental to the Complainant’s Rights*

6.8 This definition requires me to consider whether the Domain Name is an Abusive Registration either at the time of registration/ acquisition or subsequently through the use that was made of it.

6.9 Paragraph 5 of the DRS Policy provides a non-exhaustive list of the factors which may constitute evidence that a Domain Name is an Abusive Registration. and Paragraph 8 of the DRS Policy provides a non-exhaustive list of the factors which may constitute evidence that the Domain Name is not an Abusive Registration.

- 6.10 The Policy requires the Complainant to prove, on the balance of probabilities, that the Domain Name is an Abusive Registration. The burden of proof is therefore firmly on the Complainant.
- 6.11 In order to make a finding of Abusive Registration it is reasonably common ground amongst Nominet Experts that, in all but a minority of cases, there must be an element of knowledge on the part of the Respondent in the sense that the Respondent must, on some level, be aware of the Complainant's Rights. In some cases, where the name in which the Complainant has Rights is particularly well known, this would be fairly obvious and straightforward, while in other cases, where the name in which the Complainant has Rights is less well-known and/or where there are other meanings or uses which can be made of the name, this will require substantial evidence from the complainant.
- 6.12 The approach that I intend to take in this case is to look at the overall question of whether the Respondent's registration or use of the Domain Names constitutes an Abusive Registration. Bound up with that, and indeed central to it, will necessarily be the question of the Respondent's knowledge of the Complainant's Rights.
- 6.13 In making this overall assessment the nature of the name or mark in which the Complainant has Rights is also clearly a factor here. The more descriptive or generic that name or mark is then the more likely it is that the Respondent simply happened upon the Domain Name as a "good domain name" without necessarily having any knowledge of the Complainant's Rights. Obviously the more well-known and unique that name or mark is then the less likely it is that the Respondent did not register the Domain Name with the Complainant's Rights in mind.
- 6.14 The current case falls closer towards the former category, i.e. the name or mark in which the Complainant has Rights, i.e. AON, is well established and has been extensively used by the Complainant.
- 6.15 In this case the Domain Name has been used to impersonate an employee of the Complainant in an attempt to commit a phishing scam. The Domain Name is unquestionably an Abusive Registration. It has been used in a way that takes unfair advantage of and is detrimental to the Complainant's Rights (and which is almost certainly fraudulent as well).
- 6.16 It is also inconceivable that the Respondent would not have known about the Complainant's Rights when the Domain Name was registered – particularly in light of the use that was made of the Domain Name, to impersonate an employee of the Complainant, on the same day as it was registered.
- 6.17 I therefore find that the Domain Name is an Abusive Registration.

7. Decision

I find that the Complainant has Rights in a name or mark which is identical or similar to the Domain Name. Further, I find that the Complainant has established that the

Domain Name in the hands of the Respondent is an Abusive Registration. I therefore direct that the Domain Name should be transferred to the Complainant.

Signed

Dated 3rd November 2020

Nick Phillips