

## ADMINISTRATIVE PANEL DECISION

Atlas Copco AB v. 阿特拉斯科普柯集团（中国）有限公司 (Atlas Copco Group (China) Co., Limited)

Case No. D2024-0852

### 1. The Parties

The Complainant is Atlas Copco AB, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 阿特拉斯科普柯集团（中国）有限公司 (Atlas Copco Group (China) Co., Limited), Seychelles.

### 2. The Domain Name and Registrar

The disputed domain name <atlasopcogroupchina.com> is registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 28, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (N/A) and contact information in the Complaint. On the same day, the Center sent an email communication to the Complainant, 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 March 1, 2024.

On February 28, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On March 1, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any 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 Chinese and English of the Complaint, and the proceedings commenced on March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 27, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 3, 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 specializes in the manufacture of industrial tools and equipment, including compressed air solutions. Founded in 1873, the Complainant began using the name "Atlas Copco" in 1955; "Copco" was a contraction of the name of its subsidiary Compagnie Pneumatique Commerciale. The Complainant holds trademark registrations in multiple jurisdictions, including the following:

- Chinese trademark registration number 161197 for a semi-figurative ATLAS COPCO mark, registered on August 15, 1982, specifying goods in class 7;
- International trademark registration number 997914 for a semi-figurative ATLAS COPCO mark, registered on October 20, 2008, designating multiple jurisdictions, including China, and specifying goods and services in multiple classes; and
- European Union trademark registration number 018231773 for ATLAS COPCO, registered on October 28, 2020, and specifying goods and services in multiple classes.

The above trademark registrations remain current. The Complainant registered the domain name <atlascopco.com> in 1995 and uses it in connection with a website where it provides information about itself and its products, including air compressors and compressed air dryers. The website prominently displays the Complainant's semi-figurative ATLAS COPCO mark in a light blue color. The website includes a section dedicated to each country where the Complainant is present, including China. The Complainant registered the domain name <atlasopcogroup.com> in 2005 and uses it in connection with a website where it provides information about its corporate group. This website displays a logo for "Atlas Copco Group". The Complainant has registered other domain names, including <atlascopcochina.com> in 2013, which resolves to a blank page.

The Respondent is a company allegedly located in the Seychelles. Its company name and its contact person's name are indicated in the Registrar's verification email in Chinese and English.

The disputed domain name was registered on May 7, 2019. According to evidence presented by the Complainant, the disputed domain name formerly resolved to a website in English for Atlas Greenair, a professional air compressor and compressed air dryer manufacturer. The website prominently displayed an "Atlas Greenair" logo in the same logotype, and with the same figurative elements, as the Complainant's semi-figurative ATLAS COPCO mark, and in the same light blue color as the mark shown on the Complainant's website. The Complainant initiated takedown action following which the use of the disputed domain name changed. At the time of filing the Complaint, the disputed domain name resolved to a webpage in English for a "global sourcing center" (not named Atlas) that displayed a form inviting customers to submit buying requirements.

#### **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 contends that the disputed domain name is confusingly similar to its ATLAS COPCO mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by, or affiliated with, the Complainant in any way. The Complainant has not given the Respondent permission to use its trademark in any manner, including in a domain name. 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**

### **6.1 Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the facts that translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings; that the disputed domain name is comprised of Latin characters; and that the former website and current webpage associated with the disputed domain name are in English, which suggests that the Respondent is competent in that language.

The Respondent did not make any submissions with respect to the language of the proceeding or indicate any interest in otherwise participating in this proceeding, despite the Center having sent an email regarding the language of the proceeding and the notification of Complaint in both Chinese and English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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 and is being used in bad faith.

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

It is well accepted that the first 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 trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7. The Complainant has shown rights in respect of the semi-figurative ATLAS COPCO trademark, inter alia, for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The textual elements of the mark ("ATLAS COPCO") are reproduced within the disputed domain name. Although the addition of other terms (here, the word "group" and the country name "China") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity because the textual elements of the mark remain clearly recognizable in the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds the first element of the Policy has been established.

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

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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name combines the textual elements of the Complainant's semi-figurative ATLAS COPCO mark with the word "Group" and the country name "China", giving the impression that the disputed domain name will resolve to a website for a Chinese affiliate of the Complainant's company group. Prior to receiving notice of the dispute, the disputed domain name resolved to a website that prominently displayed an "Atlas Greenair" logo adapted from the Complainant's semi-figurative ATLAS COPCO mark. The website offered air compressors and compressed air dryers that competed with the Complainant's products. The website gave the misleading or at least confusing impression that it was somehow affiliated with, or endorsed by, the Complainant. However, the Complainant submits that the Respondent is not sponsored by, or affiliated with, it in any way. At the time of filing the Complaint, the disputed domain name resolved to a webpage inviting customers to submit buying requirements. In view of these circumstances, the Panel does not consider that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services, nor is it making a legitimate noncommercial or fair use of the disputed domain name.

The Registrar has verified that the English name of the Respondent is shown in the Whois database as "Atlas Copco Group (China) Co., Limited". However, the Respondent's former website was branded "Atlas Greenair" and its current webpage does not display any Atlas name. There is no evidence that the Respondent is commonly known by the disputed domain name.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth of these is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] 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 [the respondent’s] website or location;”

In the present case, the disputed domain name was registered in 2019, years after the earlier registrations of the Complainant’s semi-figurative ATLAS COPCO mark. The disputed domain name wholly incorporates the textual elements of that mark, which is not a dictionary term or common phrase, and adds the word “Group”, as in the Complainant’s group name, as well as the country name “China”. The website formerly associated with the disputed domain name prominently displayed an adaptation of the Complainant’s semi-figurative ATLAS COPCO mark and offered for sale the same type of products as the Complainant’s. These circumstances give the Panel reason to find that the Respondent was aware of the Complainant and targeted its mark at the time when the Respondent registered the disputed domain name.

As regards use, the disputed domain name formerly resolved to a website displaying a logo adapted from the Complainant’s ATLAS COPCO semi-figurative mark, and offering air compressors and compressed air dryers that competed with the Complainant’s products. In light of these circumstances and the findings in section 6.2B above, the Panel finds that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

The Panel takes note that the use of the disputed domain name changed so that it resolves to a webpage that no longer displays the term “Atlas” or the names of any products, but invites customers to submit buying requirements. These circumstances occurred after the Respondent received notice of this dispute and do not alter the Panel’s conclusion.

Therefore, the Panel finds that the Complainant has established the third element of the Policy.

### **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 <atlasopcogroupchina.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: April 10, 2024