

ADMINISTRATIVE PANEL DECISION

İflas halinde ATLASJET HAVACILIK ANONİM ŞİRKETİ v. Vahap Dogan
Case No. D2024-3548

1. The Parties

The Complainant is İflas halinde ATLASJET HAVACILIK ANONİM ŞİRKETİ, Türkiye, represented by BARKALE HUKUK BÜROSU, Türkiye.

The Respondent is Vahap Dogan, United States of America (“United States”), self-represented.

2. The Domain Name and Registrar

The disputed domain name <atlasjet.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in Turkish with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2024. On September 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 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 September 5, 2024.

On September 4, 2024, the Center informed the parties in English and Turkish, that the language of the registration agreement for the disputed domain name is English. On September 5, 2024, the Complainant submitted the Complaint translated into English. The Respondent did not submit any comment on the Complainant’s submission.

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 September 18, 2024. In accordance with the Rules, paragraph 5, the initial due date for Response was October 8, 2024. Upon the Respondent's request, the Response due date was extended to October 12, 2024. The Response was filed with the Center on October 14, 2024. On October 16, 2024, the Center received a supplemental filing by the Complainant in reaction to the Respondent's Response.

The Center appointed Kaya Köklü as the sole panelist in this matter on October 17, 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 an airline that was founded in 2001 in Türkiye. Since 2020, the Complainant is in insolvency proceedings.

The Complainant is the registered owner of the ATLASJET trademark. Among some others, the Complainant is inter alia the registered owner of the Turkish Trademark Registration No. 2004 28300, registered on August 28, 2007, for ATLASJET, covering protection for various goods and services, including flight and airline services as protected in class 39.

According to its own statements, the Complainant used its ATLASJET trademark until 2014. As of 2015, the Complainant predominantly switched its use from ATLASJET to its other brand "Atlasglobal", which is also protected by way of various Turkish trademark registrations.

The Respondent is an individual located in the United States. He is the owner and director of a company that inter alia offers water jet cutters.

The disputed domain name was initially registered on May 12, 2001, in the name of the Complainant. About two years after the start of the insolvency proceedings against the Complainant, namely on June 16, 2022, the Respondent acquired the disputed domain name from an online auction platform to a price of USD 5,650.

Ever since, the disputed domain name redirects Internet users to the commercial website of the Respondent for its water jet cutters.

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.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent particularly argues that he offers a number of water jet cutters under the brand "AtlasJet" for many years. He asserts that his products are "known well in the market". For evidence purposes, the Respondent provided screenshots of his recent commercial website indicating the use of "AtlasJet" for his water jet cutters. He also provided a copy of a flyer with prominent reference to "AtlasJet", inviting customers to a live water jet cutting demonstration for November 15, 2021.

6. Discussion and Findings

6.1. Late Response

Paragraph 14(a) of the Rules provides that, in the event of a late response, absent exceptional circumstances, panels shall proceed to a decision based solely on the complaint. On the other hand, paragraph 10(b) of the Rules requires panels to ensure that parties are treated with equality and that each party is given a fair opportunity to present its case.

The Response was filed two days late. Based on the overall circumstances of the case, and also taking into account the fact that the Response was filed before the appointment of the Panel – and indeed that the Complainant filed a supplemental filing itself, and that the delay has not delayed the resolution of this proceeding – and further bearing in mind the Panel’s obligations under paragraph 10(b) of the Rules – the Panel accepts the late filing of the Response.

6.2. Consideration of Supplemental Filing by the Complainant

The Panel notes that the Center received an unsolicited supplemental filing from the Complainant on October 16, 2024.

In light of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.6, the Panel follows the reasoning of the panel in *Viz Communications, Inc. v. Redsun dba www.animerica.com and David Penava*, WIPO Case No. [D2000-0905](#), that it is appropriate to consider the circumstances of each case before deciding whether or not to admit additional submissions.

In this case, the supplemental filing by the Complainant of October 16, 2024 is a direct reaction to the Respondent’s filed submission of October 14, 2024. By providing an earlier screenshot of the Respondent’s website linked to the disputed domain name, the Complainant contends the Respondent’s allegation that his water jet cutters have ever been offered under ATLASJET prior to filing the Complaint.

The Panel notes that the supplemental filing by the Complainant was filed as a direct reaction to the Respondent’s filings and allegations, and, hence, contains nothing that the Complainant could have bring forward with its Complaint already. The Panel further notes that the supplemental filing did not delay the administrative proceeding.

Consequently, the Panel decided to take the Complainant’s filing of October 16, 2024, and the provided additional annexes into account in order to render a decision in this case.

6.3. Substantive Issues

According to paragraphs 15(a) of the Rules, the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 and is being used in bad faith.

It is further noted that the Panel takes note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the ATLASJET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name with no additions. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

However, noting the Panel's findings on the third element, the Panel does not need to make a final determination regarding potential rights or legitimate interests of the Respondent.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may 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.

In the present case, the Panel notes that the Respondent has acquired the disputed domain name by way of an online action for a considerable amount about two years after the start of the insolvency proceedings against the Complainant. Before the acquisition of the disputed domain name by the Respondent, the Complainant must have discontinued the renewal of its previously owned disputed domain name. As the Complainant did not provide any reasoning for the discontinued renewal, it remains unclear whether this happened deliberately or unintentionally.

In addition, the Panel finds that the case file does not indicate with sufficient certainty that the Respondent registered the disputed domain name in bad faith with the purpose of targeting the Complainant and/or its trademark rights.

Quite the contrary, the Panel notes that the disputed domain name was registered in the name of the Respondent about seven years after the Complainant (according to its own statement) stopped actively using its ATLASJET trademark for its flights and at a time when the insolvency proceedings against the Complainant were already pending for about two years. This already makes it doubtful that the Respondent is a cybersquatter who registered the disputed domain name in bad faith in order to target the Complainant.

The Panel does not ignore that the documents provided by the Respondent, particularly the screenshots of his recent website, are not bulletproof and do not provide clear evidence of a long-standing use of "AtlasJet" as a brand for water jet cutters, as claimed by the Respondent. However, it cannot be denied that ALTASJET comprises the term "jet" which is a word component of "water jet cutters", and it is undisputed that the Respondent is active in the field of water jet cutters, which is different to the business field in which

the Complainant was active. It is therefore possible, and in any case not inconceivable, that the Respondent has registered the disputed domain name independently and detached from any trademark rights of the Complainant in order to use "AtlasJet" as a legitimate identifier for his water jet cutters.

In light of the above and despite some inconsistencies in the Respondent's filings, the Panel does not see sufficient and reliable indications in the case file to find bad faith registration, for the purposes of the Policy, by the Respondent.

As a consequence, the Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: October 31, 2024