

ADMINISTRATIVE PANEL DECISION

Kuiek Karolina Miroslavovna aka Ani Lorak (Ани Лорак) v.
Roman K, Concord
Case No. D2024-4779

1. The Parties

The Complainant is Kuiek Karolina Miroslavovna aka Ani Lorak (Ани Лорак), Ukraine, represented by Internet & Law, Russian Federation.

The Respondent is Roman K, Concord, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <anilorak.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On November 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 November 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2024.

The Center appointed Wilson Pinheiro Jabur, Assen Alexiev, and Piotr Nowaczyk as panelists in this matter on January 3, 2025. The Panel finds that it was properly constituted. Each member of 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.

The Complainant submitted an unsolicited supplemental filing on January 10, 2025.

On January 20, 2025, the Panel issued the Procedural Order No. 1 inviting first the Complainant to describe how the use of the disputed domain name took place and whether the Respondent registered and used the disputed domain name without the Complainant's knowledge and consent, given that the evidence produced indicated the potential existence of a relationship or cooperation between the Parties in the period of 1999-2014. The Complainant submitted a reply to this Procedural Order on January 22, 2025. The Respondent did not submit a reply.

4. Factual Background

The Complainant is the singer and actress whose artistic name is "Ani Lorak" (in Cyrillic – "Ани Лорак"), derived from her real name "Karolina" ("Каролина" in Cyrillic) in reverse.

The Complainant's career started in 1992 at the age of 14, when the Complainant signed her first professional contract after having won the popular sing competition "Pervotsvet". In March 1995 the Complainant became known as "Ani Lorak", having won the "Morning Star" television program international contest for young performers. From then on, the Complainant embarked on an international career as singer, voice actress, actress, poet, composer, also having become a businesswoman and philanthropist.

The Complainant is the owner, amongst several others, of the International trademark registration No. 1262404, for the word mark ANI LORAK, registered on October 27, 2014, in classes 3, 16, 21, 25, 35, 41, and 43.

The disputed domain name was registered on September 7, 1999, and presently does not resolve to an active webpage. In the past, the disputed domain name duplicated the Complainant's official website.

The Parties, from June 10, 2014, until August 2, 2014, have undergone negotiations with a view as to the transfer of the disputed domain name, having the Respondent initially requested the sum of USD 100,000 for the disputed domain name.

After the unsuccessful outcome of the negotiations, the disputed domain name was used in connection with a webpage stating "F[...] you Putin" combined with an image of an obscene gesture against the background of the Russian flag. Later, the disputed domain name was used in connection with a webpage displaying defamatory content then to redirect Internet users to third-party websites, including a cosmetics store and, more recently in connection with an attempt to collect funds purportedly on behalf of the Complainant (Annex 5 to the Complaint).

In its unsolicited supplemental filing of January 10, 2025, the Complainant attached a letter dated January 9, 2025, by the Respondent's counsel proposing a settlement with the payment of USD 20,000 for the transfer of the disputed domain name.¹

¹ The Respondent's apparent counsel did not participate in this proceeding to the extent that no communication was sent by the Respondent's counsel to the Center or copying the Center, as required under paragraph 2(h) of the Rules. Despite the unilateral settlement offer extended by the Respondent's counsel, there is no indication of whether the counsel was retained for purposes of this proceeding since no formal Response was submitted. Accordingly, given the lack of any indication of authorized representation by the apparent Respondent's counsel for purposes of this proceeding, the Respondent's counsel has not been identified in the Decision as the Respondent's authorized representative.

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 to hold unregistered (and then registered) trademark rights over ANI LORAK which the Complainant began to use in the early 1990s, having the Complainant become widely known in the Russian Federation, Ukraine, and then all over the world. The Complainant further asserts to have released, since 1996, 30 albums, as well as having been named "Honoured Artist" of Ukraine in 1999 (having been the youngest singer ever to achieve this rank) and collecting numerous awards and prizes, including international ones such as the silver winner of Eurovision-2008. In addition to that, the Complainant states to spend considerable time on charitable activities, having the Complainant been awarded a commendation by UNICEF and UN in Ukraine for the Complainant's assistance and help to HIV positive citizens of Ukraine as well as having the Complainant been named an "UN Goodwill Ambassador on HIV/AIDS" in Ukraine.

The Complainant further asserts that the Respondent, possibly a previous fan of the Complainant, is a native speaker of the Ukrainian language, currently living in the United States, having registered the disputed domain name on September 7, 1999, without the Complainant's authorization, later having blackmailed the Complainant to sell the disputed domain name for USD 100,000 and threatening to use the disputed domain name, in case of refusal, in connection with defamatory content that would be harmful to the Complainant's reputation.

The Complainant contends that the disputed domain name is identical to the Complainant's trademark rights in ANI LORAK, used by the Complainant since the early 1990s and later registered by her.

As to the absence of rights or legitimate interests, the Complainant argues that:

(i) the Respondent does not hold any trademark rights over ANI LORAK or "Ани Лорак", and that the Complainant has not granted any license to the Respondent to use her trademarks;

(ii) the Respondent is also not known by the disputed domain name and there is nothing in the Respondent's name that indicates it may have become commonly known by the disputed domain name, not enabling it to establish a legitimate interest in the disputed domain name;

(iii) there is no affiliation between the Complainant and the Respondent;

(iv) the Respondent has blackmailed the Complainant, offering to sell the disputed domain name for USD 100,000 threatening to otherwise use the disputed domain name to publish information discrediting the Complainant; and

(v) the Respondent is not making legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain.

Lastly, in what it relates to the bad faith registration and use of the disputed domain name, the Complainant asserts that the disputed domain name does not consist of a common term or an ordinary word, particularly, in the Russian, Ukrainian or in any other European languages, being therefore the Respondent's choice when registering the disputed domain name not accidental, rather having aimed the particular famous name of the Complainant, who at the time of registration of the disputed domain name by the Respondent had already become well-known internationally as "Ani Lorak", largely used in connection with concerts and the music industry as a distinctive identifier of the Complainant's goods and services.

As to the bad faith use of the disputed domain name, the Complainant states that the disputed domain name has been subject to different uses, all in bad faith, specially, as seen above, when the disputed domain name was used in connection with defamatory content harmful to the Complainant's reputation, and in attempts to collect money on behalf of the Complainant, causing Internet users to mistakenly believe that the website available at the disputed domain name is somehow associated with, affiliated with, or otherwise endorsed by the Complainant, which is not true.

In the Complainant's submission to the Procedural Order No. 1, the Complainant states that the Respondent may have previously been a fan of the Complainant, but the Complainant and the Respondent are not familiar personally, also there never having been a contractual relationship between them.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name:

- (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 and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present so as to have the disputed domain name transferred, according to the Policy.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds that the Complainant has established both unregistered trademark or service mark rights for the purposes of the Policy as well as registered rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.3 and 1.2.1.

The entirety of the Complainant's mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy.

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

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, even when requested by the Panel by way of a procedural order.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates with the indication of the absence of a right or legitimate interest in the disputed domain name.

Furthermore, Panels have held that the use of a domain name for illegal activity such as impersonation, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name, not having submitted a response;
- (ii) the well-known status of the Complainant at the time of the registration of the disputed domain name;
- (iii) the nature of the disputed domain name (identical to the Complainant's trademark), and the Respondent's likely intention to unduly profit from the value of the Complainant's trademark, suggest rather a clear indication of the Respondent's registration and holding of the disputed domain name in bad faith, with the implausibility of any good faith use to which the disputed domain name may be put;
- (iv) the Respondent's attempts to sell the disputed domain name for amounts in excess of the out-of-pocket costs incurred in the registration of the disputed domain name (USD 100,000 in 2014 and USD 20,000 in 2025), absent any evidence from the Respondent to the contrary; and
- (v) the present inactive use of the disputed domain name. [WIPO Overview 3.0](#), section 3.3.

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 <anilorak.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Presiding Panelist

/Alexiev Assen/

Alexiev Assen

Panelist

/Piotr Nowaczyk/

Piotr Nowaczyk

Panelist

Date: February 3, 2025