

ADMINISTRATIVE PANEL DECISION

Atlasjet Havacilik Anonim Şirketi v. sana bb, kps
Case No. D2024-3604

1. The Parties

The Complainant is Atlasjet Havacilik Anonim Şirketi, Türkiye, represented by BARKALE HUKUK, Türkiye.

The Respondent is sana bb, kps, Cambodia.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 10, 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 September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 24, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on October 28, 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 a Turkish airline, currently in liquidation, that has traded under the marks ATLASJET and ATLAS GLOBAL for some 20 years, as well as other marks such as ATLASGLB.

The Complainant owns figurative Turkish Registration No. 2015 108282 for ATLASGLB, filed on December 29, 2015, registered on August 3, 2016, in classes 38 and 39.

The Complainant also owns, among others, Turkish Registration No. 2004 28300 for ATLASJET, filed on September 3, 2004, registered on August 28, 2007 in classes 5, 16, 21, 35, 37, 39, and 41; and figurative Turkish Registration No. 2014 90768 for ATLASGLOBAL, filed on November 7, 2014, registered on May 17, 2016 in classes 5, 9, 16, 21, 35, 36, 37, 39, 41, 42, 43, and 44.

The disputed domain name was registered on September 19, 2014.

The Respondent has redirected the disputed domain name to a gambling website under a dissimilar and unrelated domain name.

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 did not reply to the Complainant's contentions.

6. Discussion and Findings

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 trade mark 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 Complainant has shown rights in respect of a trade mark or service mark 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. 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised 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.

As to paragraph 4(c)(i) of the Policy, the Respondent has redirected the disputed domain name to a gambling site with no obvious connection to the words in the disputed domain name but with the obvious potential to damage the reputation of the Complainant’s trade mark. Such use of the disputed domain name could not be described as bona fide. See further under section 6C below.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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.

In the Panel’s view, it is obvious that the Respondent was aware of the Complainant when registering the disputed domain name, which reflects the Complainant’s distinctive ATLASGLB mark, i.e., the word “ATLAS” plus “GLB”, the exact shorthand for “global” used by the Complainant. It seems unlikely that the Respondent conceived of the disputed domain name independently of the Complainant, even though the disputed domain name was apparently registered before the registration of the ATLASGLB mark. Furthermore, the Panel notes that the Complainant provided evidence that it was making use of and had registered numerous “ATLAS”-formative marks for decades before the registration of the disputed domain name. In these circumstances, and absent explanation from the Respondent, it appears most likely that the Respondent was targeting the Complainant and its trade marks when registering the disputed domain name.

In the Panel’s view, the Respondent set out to create a likelihood of confusion with the Complainant’s mark in accordance with paragraph 4(b)(iv) of the Policy.

In the absence of a plausible explanation from the Respondent as to why it has used the disputed domain name for gambling services that have no obvious connection with any potential ordinary meaning of the disputed domain name, the Panel thinks it reasonable to conclude that most likely the Respondent was seeking to take unfair advantage by profiting from traffic intended for the Complainant.

The likelihood of confusion is not diminished by the probability that users arriving at the Respondent’s site will realise that the site is not connected with the Complainant. Paragraph 4(b)(iv) of the Policy is concerned with the intentional attracting of Internet users. Here, the disputed domain name creates a risk of implied affiliation with the Complainant, and the Respondent profits from at least some of the traffic intended for the Complainant.

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 <atlasglb.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: November 11, 2024