

## **ADMINISTRATIVE PANEL DECISION**

ATI Inc. v. Mark Evans, Angaroute  
Case No. D2024-4372

### **1. The Parties**

The Complainant is ATI Inc., United States of America (“United States”), represented by K&L Gates LLP, United States.

The Respondent is Mark Evans, Angaroute, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <alleghenyludlumllc.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2024. On October 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for privacy ehf and Mark Evans, Angaroute) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 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 October 25, 2024.

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 October 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 19, 2024. The Center received an email communication from an email address associated with the disputed domain name on November 20, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on December 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, ATI Inc., founded in 1996, is a specialty materials company that produces various high-performance metals, components, advanced alloys, and solutions for worldwide aerospace, defense, oil & gas, chemical, electrical energy, and mechanical industries.

The Complainant owns and controls Allegheny Ludlum, LLC (“Allegheny Ludlum”), one of its subsidiary operating companies that performs specific manufacturing operations in the Pittsburgh, Pennsylvania region. Allegheny Ludlum was formed in 1938 by the merger of Allegheny Steel of Pittsburgh and Ludlum Steel of Watervliet, New York, both of which, prior to merging, manufactured steel for iconic skyscrapers in New York City, including the Chrysler Building and the Empire State Building. During the 1970s, Allegheny Ludlum collaborated with Ford to build concept cars with stainless steel bodies, acquired the British razor brand Wilkinson Sword and the American writing instrument/butane lighter company Scripto, and in 1987 became a publicly traded company.

The Complainant’s wholly-owned subsidiary, ATI Properties LLC, has the following trade mark incorporating the name ALLEGHENY LUDLUM:

- Mexico Trade Mark Registration No. 48309 in Classes 6, 7, 9, 14, and 16, registered on February 19, 1945.

The disputed domain name was registered on October 13, 2023.

According to the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a website featuring the ALLEGHENY LUDLUM trademark and purportedly offering goods under the name of Allegheny Ludlum LLC. At the time of issuance of this Decision, the disputed domain name continues to resolve to the same website. The evidence provided by the Complainant also shows that the disputed domain name has been used for fraudulent purposes.

#### **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 registered by the Respondent is identical or confusingly similar to the Complainant’s ALLEGHENY LUDLUM trade mark, and that the addition of the generic Top-Level Domain (“gTLD”) “.com” does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant’s trade mark. Furthermore, the Complainant argues that the addition of the term “llc” does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s ALLEGHENY LUDLUM mark.

The Complainant asserts that it has not authorized the Respondent to use the ALLEGHENY LUDLUM mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the ALLEGHENY LUDLUM mark in any way. According to the Complainant, on the website to which the disputed domain name resolves, the Respondent falsely hold itself out to the public as Allegheny Ludlum LLC in an effort to mislead and defraud the Complainant's commercial partners and thereby obtain illegitimate commercial benefits. The Respondent's fraudulent activities have led the Complainant to conclude that there is no plausible good faith reason for the Respondent to have registered the disputed domain name, and that the Respondent's use of disputed domain name must therefore be in bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. On November 20, 2024, the Center received an email communication from an email address associated with the disputed domain name, stating "This is our domain and we are falsely being accused. We are not sure on how to proceed."

## **6. Discussion and Findings**

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

To prevail in a UDRP dispute, the first of three elements a complainant must prove is that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights. It is widely accepted that this 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.

Based on the Complainant's long use of its ALLEGHENY LUDLUM trade mark (at least 70 years) and the significant media exposure enjoyed by this mark, the panel finds that this mark has become a distinctive identifier which consumers closely associate with the Complainant's goods and services. The Complainant and its subsidiary Allegheny Ludlum, LLC have acquired both registered rights and common law rights in the ALLEGHENY LUDLUM trade mark, which are sufficient for purposes of Policy, paragraph 4(a)(i).

The entirety of the Complainant's trade mark is reproduced and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ALLEGHENY LUDLUM trade mark for the purposes of the Policy. The inclusion of the additional term "llc" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the ALLEGHENY LUDLUM trade mark and in showing that the disputed domain name is confusingly similar to its mark.

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

The second element that a complainant must prove is that the respondent has no rights or legitimate interests in the disputed domain name. 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.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a formal response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. At the time the Complaint was filed, the disputed domain name resolved to a misleading website falsely suggesting an affiliation with the Complainant featuring the ALLEGHENY LUDLUM trade mark and purportedly offering goods under the name of Allegheny Ludlum LLC. Further, the evidence provided by the Complainant shows that the disputed domain name has been used to send fraudulent emails and purchase orders. The Panel further notes that the email communication received from the Center on November 20, 2024 was sent from one of the email addresses associated with the disputed domain names that have been used for fraudulent purposes. Panels have categorically held that the use of a domain name for illegitimate activity (here impersonation/passing off and phishing) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

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

The third and final element that a complainant must prove is that the respondent has registered and is using the disputed domain name in bad faith. 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 states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

In the present case, the Panel notes that the Respondent has registered and used the disputed domain name for fraudulent purposes. The evidence provided by the Complainant shows that the disputed domain name was used to send fraudulent emails impersonating the Complainant's subsidiary Allegheny Ludlum to induce the Complainant's commercial partners to ship dangerous chemicals to the Respondent.

The circumstances described above clearly indicate the intent of the Respondent to opportunistically attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's famous mark. Panels have held that the use of a domain name for illegitimate activity (here phishing and impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In light of the foregoing, there are no plausible good faith reasons for the Respondent to have registered and used the disputed domain name.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

## 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 <alleghenyludlumllc.com> be transferred to the Complainant.

*/Joseph Simone/*

**Joseph Simone**

Sole Panelist

Date: December 17, 2024