

ADMINISTRATIVE PANEL DECISION

Aston Martin Lagonda Limited v. DNS Admin, Kindpedia
Case No. DAI2023-0014

1. The Parties

The Complainant is Aston Martin Lagonda Limited, United Kingdom, represented by J A Kemp LLP, United Kingdom.

The Respondent is DNS Admin, Kindpedia, United States of America (“United States”), represented by Siddharth and Co, Advocates, India.

2. The Domain Name and Registrar

The disputed domain name <astonmartin.ai> is registered with Netherlands Domains (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2023. On July 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 7, 2023, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 8, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Complainant submitted a request for suspending the proceeding for the Parties to explore settlement options to the Center on September 13, 2023. The Center sent a Notification of Suspension to the Parties on September 13, 2023. The Complainant sent a request to the Center to extend the suspension period by email on October 13, 2023. The Center sent a Notification of Extension to Suspension email to the Parties the same day. The Complainant sent a second request to the Center to extend the suspension period by email on November 20, 2023. The Center sent a second Notification of Extension to Suspension email to the Parties the same day. The Complainant sent a request to reinstitute the proceeding and filed an amended Complaint on December 20, 2023. The Center reinstated the proceeding on December 21, 2023.

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 December 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 15, 2024.

The Respondent sent an email communication to the Center on January 31, 2024, with a request to file a late Response within seven days.

The Center appointed Fabrice Bircker as the sole panelist in this matter on February 2, 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.

On, February 2, 2024, the Panel issued an Administrative Panel Order which granted the Respondent five days to submit a Response and, in the event he would do so, the Panel gave the Complainant an opportunity to reply by latest three days after the Respondent has submitted its Response. As a consequence, the due date to submit the Decision to the Center was extended to February 23, 2023.

On, February 6, 2024, the Respondent submitted a Response.

On February 9, 2024, the Complainant submitted its comments and reply to the Response.

On February 9, 2024, the Respondent submitted a request to file comments to the Complainant’s reply.

4. Factual Background

The Complainant, Aston Martin Lagonda Ltd, is a worldwide luxury sport cars brand with a more than century history.

The Complainant’s cars sold under the ASTON MARTIN trademark have been featured in numerous James Bond blockbuster movies from “Goldfinger” in 1965 to “No time to die” in 2021.

Besides, since 2018, the Complainant’s brand is also involved in sponsoring a Formula 1 team and, correlatively, in participating to Formula 1 grand prix.

The Complainant’s ASTON MARTIN brand is protected, among other, through the following trademarks registrations:

- ASTON MARTIN, European Union trademark registration No. 8367815 filed on June 16, 2009, registered on March 16, 2010, duly renewed since then, and covering products and services of Classes 12, 35, 37 and 41 – in Germany and Italy, this trademark enjoys a seniority dating back, respectively, April 27, 1982, and April 30, 2002; and
- ASTON MARTIN, United States trademark registration No. 4024407 filed on June 24, 2009, registered on September 13, 2011, duly renewed since then, and covering products and services of Classes 3, 6, 7, 9, 11, 12, 14, 16, 18, 20, 24, 25, 26, 27, 28, 35, 36, 37, 39, 41 and 43.

The Complainant’s ASTON MARTIN brand is also reflected in the <astonmartin.com> domain name, which was registered on June 15, 1995, and which resolves to its official website.

The disputed domain name, <astonmartin.ai>, was registered on September 2, 2022.

At the time of drafting the decision, the disputed domain name resolves to a website offering it for sale.

Besides, according to the submissions from the Parties, the disputed domain name has also been listed for sale on several domain names marketplaces.

Very little is known about the Respondent, except that it is apparently located in the United States, based on the information disclosed by the Registrar.

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 well-known and distinctive trademark ASTON MARTIN because it consists in the mere reproduction of the latter.

The Complainant also submits that the relevant dispute ruleset to the ".ai" country code Top-Level-Domain ("ccTLD") domain names disputes is the UDRP, under which there is no requirement for a complainant to own registered trademark rights in a specific jurisdiction and covering specific goods or services.

Besides, the Complainant argues that the Respondent has no rights or legitimate interests in respect with the disputed domain name, in substance because:

- the Respondent is not authorized by the Complainant to use the ASTON MARTIN trademark and is not affiliated or otherwise known to the Complainant;
- there is no evidence suggesting that the Respondent is commonly known by the disputed domain name or has acquired any trademark rights corresponding to same;
- the disputed domain name is listed for sale on several domain names marketplaces; and
- the Complainant has contacted the Respondent in an attempt to seek the voluntary transfer of the disputed domain name and received no response.

At last, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- the only plausible explanation for the Respondent's choice of the ".ai" ccTLD when registering the disputed domain name is an expectation that, given its popularity, the Respondent would likely be able to profit from the Complainant's reputation in its famous and distinctive trademark by selling the disputed domain name;
- it is inconceivable that the Respondent would not be aware of the Complainant given the fame, history and longevity of its brand;
- as the Respondent is located in the United States, arguably, the Respondent had constructive notice of Complainant's rights in ASTON MARTIN as the Complainant had already obtained prior corresponding federal trademark registrations;

- by registering the disputed domain name and immediately offering it for sale, the Respondent seeks to utilize the reputation and goodwill of the Complainant's ASTON MARTIN mark for commercial gain and to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the Complainant, potentially with the intention of transferring the disputed domain name to a competitor of the Complainant;
- the Respondent appears to have tried to use an unconventional proxy service in the form of a virtual office service address to intentionally delay disclosure of the identity of the actual underlying registrant;
- the Respondent's registration of the disputed domain name prevents the Complainant from reflecting its ASTON MARTIN mark in similar corresponding domain names; and
- the disputed domain name has since the day after its registration been listed for sale on various domain names marketplaces and has been used to redirect to these listings. Besides, the Respondent has not apparently otherwise used the disputed domain name for any content. Therefore, the Respondent's lack of use of the disputed domain name is indicative of bad faith use and registration under the doctrine of passive holding in light of (i) the high level of distinctiveness and repute associated with the Complainant's earlier mark, (ii) the absence of any evidence of actual or contemplated good-faith use, (iii) the respondent's apparent attempts to conceal its identity and/or use false contact details, and (iv) the implausibility of any good faith use to which the disputed domain name may be put.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

Its main arguments are as follows:

The Respondent claims that the first element of the Policy is not fulfilled because the Complainant lacks any substantive trademark in the country of Anguilla to which the ".ai" ccTLD pertains and in the domain of artificial intelligence. In this respect, the Respondent prevails of the decision rendered in *PB Fintech Private Limited v. Wayde Knight, The Trustee for WDK Trust, trading as Knightcorp Insurance Brokers*, WIPO Case No. [DAU2021-0010](#).

The Respondent adds that "[...] the Complainant has brazenly sidestepped any attempt at amicable resolution by blindsiding the Respondent with baseless claims and a malicious attempt to wrest control of a domain name to which it holds no legitimate entitlement under the Policy. This Machiavellian maneuver is a clear indicator of the Complainant's nefarious intent to harass and intimidate the Respondent through underhanded means."

In addition, the Respondent invokes the decision rendered in *Mr. Gildo Pallanca-Pastor v. Tech Admin, Virtual Point Inc.*, WIPO Case No. [D2020-1698](#), which notably states "[...] it is notable that there is a complete absence in the Complaint of any information about the extent or reach of the Complainant's mark, the manner in which it has been used or indeed its history or notoriety [...]. This is fatal to any case which the Complainant may have been seeking to make with regard to the alleged passive holding of the disputed domain name [...]. There is insufficient evidence on the record before the Panel to show that the Respondent was targeting any specific rights holder by way of that process."

Then the Respondent denies the Complainant's allegations as to its absence of rights and of legitimate interests in respect of the disputed domain name.

In this respect, the Respondent "vehemently asserts its unwavering commitment to ethical conduct and adherence to the fundamental principles of fairness".

It adds that “[i]t is imperative to underscore that the burden of proof squarely rests upon the Complainant's shoulders. Regrettably, the Complainant has woefully failed to discharge this burden, as evidenced by its glaring lack of substantiating evidence. Not a solitary document has been proffered in support of its contentions, rendering its accusations mere fabrications devoid of merit.

The Respondent vehemently contends that the Complainant's assertions regarding confusion or misleading consumers are utterly baseless and bereft of any factual foundation. It is imperative to note that the parties do not operate within the same industry, with the Complainant primarily engaged in the automobile sector, thereby obliterating any semblance of competition between the parties.

Furthermore, the Respondent vehemently asserts that the registration of the disputed domain name was not orchestrated with the intent to disrupt the Complainant's business operations. Such allegations are nothing short of egregious attempts to malign the Respondent's character and are categorically refuted.”

Then the Respondent reiterates that “[...] the Complainant has failed to establish any exclusive rights to the use of the domain name within the realm of artificial intelligence, a crucial omission that fatally undermines its claims. The Respondent's legitimate use of the domain name is safeguarded under the provisions of paragraph 4(c)(ii) of the Policy, a fact that the Complainant conveniently overlooks in its fervor to unjustly impugn the Respondent's rights”.

The Respondent also denies the Complainant's allegations as to the registration and use of the disputed domain name in bad faith.

It “[...] highlight[s] the unequivocal lack of malicious intent in the registration and use of the disputed domain name. Contrary to the Complainant's groundless assertions, the Respondent's acquisition of the domain name was conducted through entirely legal means, devoid of any ulterior motives aimed at disrupting the Complainant's business or exploiting their trademark for commercial gain.

The Complainant's attempt to inundate this proceeding with an abundance of irrelevant documents pertaining to their trademark usage falls short of substantiating their claims. Notwithstanding the voluminous submissions, the Complainant fails egregiously to demonstrate any nexus between their trademark and the field of Artificial Intelligence (AI), let alone evidence of their prominent presence or future plans therein.

Furthermore, the absence of any indication that the disputed domain name was procured with the intention to exploit the Complainant's mark in the AI domain is glaring. The Complainant's failure to establish the distinctiveness and widespread recognition of their mark in the AI sector renders their assertions of bad faith registration utterly baseless and devoid of merit.

Contrary to the Complainant's specious allegations, the Respondent's acquisition of the disputed domain name was undertaken in good faith, at a fair market value, and without any overtures from the Complainant expressing interest therein. The Respondent's lack of any intent to sell, rent, or otherwise transfer the domain to the Complainant further underscores the absence of bad faith.

It is incumbent upon the Complainant to satisfy the conjunctive requirements of both bad faith registration and use, as per established precedent. Yet, their feeble attempt to impute bad faith to the Respondent's actions crumbles under scrutiny, bereft of any substantive evidence supporting such allegations.”

The Respondent also contends that listing a domain name for sale does not amount to bad faith and cites extracts of the following decisions: *Telect, Inc. v. Arvind Reddy*, WIPO Case No. [D2017-1270](#); *Billy Bob's Texas IP Holding LLC v. Domain Administrator, Name Administration Inc. (BVI)*, WIPO Case No. [D2016-1221](#); *Coolside Limited v. Get On The Web Limited*, WIPO Case No. [D2016-0335](#); *GWG Holdings, Inc. v. Jeff Bugar, Alberta Hot Rods*, WIPO Case No. [D2016-1420](#); and *JHO Intellectual Property Holdings, LLC, Elite IP Holdings LLC v. Mahad Taheri*, WIPO Case No. [D2020-3504](#).

The last arguments of the Respondent relate to the fact that the substantiation of the Complaint mainly takes the form of a witness statement from the Complainant's representative annexed to the Complaint.

In this respect, the Respondent submits that "[t]he phrase" no amount of evidence can be looked into without pleadings in that regard" [in the witness statement] underscores the fundamental importance of legal procedures and the necessity of a structured legal process. In the realm of law, the concept of pleadings refers to the formal written statements filed by parties involved in a legal dispute. These documents outline the claims, defenses, and relevant facts that each party intends to present during the legal proceedings.

The statement suggests that evidence cannot be considered or examined in isolation; it must be accompanied by appropriate pleadings. Pleadings serve as the foundation for legal arguments and provide the framework for presenting evidence in a coherent and organized manner. Without the proper pleadings, the legal process may lack clarity, direction, and fairness.

This principle highlights the significance of adherence to established legal procedures and rules. It ensures that all parties have a fair opportunity to present their case and respond to the claims made against them. Pleadings not only guide the court in understanding the issues at hand but also enable a more effective and just resolution of disputes.

In essence, the phrase emphasizes the procedural nature of the legal system, emphasizing that evidence must be contextualized within the framework of formalized pleadings for it to be considered and evaluated appropriately. It underscores the importance of a systematic and orderly legal process to guarantee a fair and impartial administration of justice.

While I understand the importance of presenting a strong case, attaching a witness statement without proper pleading raises some concerns as it is a bit out of place.

In legal proceedings, clarity and transparency are crucial. Filing a witness statement without a corresponding pleading creates confusion and disrupts the orderly progression of the case. It's akin to presenting evidence before establishing the foundation for its relevance.

A well-drafted pleading sets the stage for the introduction of evidence, providing a structured narrative that the Hon'ble tribunal can follow. Without this framework, the court and opposing parties may struggle to understand the context and significance of the attached witness statement. It's not about stifling evidence but rather ensuring a fair and comprehensible legal process.

In conclusion, attaching a witness statement without proper pleading undermines the principles of fairness, transparency, and efficiency that are fundamental to the legal process. Such actions should be discarded to uphold the integrity of the judicial system and ensure that all parties receive equal treatment under the law."

6. Discussion and Findings

6.1 Procedural issues

A. The Respondent's late response and request to file comments to the Complainant's reply to the response

The UDRP Rules in principle provide only for a single round of pleadings (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 3.1) and the response has to be submitted within 20 days of the date of commencement of the administrative proceeding (article 5 of the Rules).

Besides, according to article 10 of the Rules:

“(a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.

(b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

(c) The Panel shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel”.

Also, article 12 of the Rules states that “[i]n addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties”.

In the present case, the Respondent should have filed its Response to the Complaint by January 10, 2024, what he did not.

However, three weeks later, on January 31, 2024, its legal representative requested the possibility to file a late Response within seven days, on the ground that his client “had been traveling out of country and were without access to email”.

Even though this justification was deprived of any supporting evidence and, in this Panel’s view, there are very few locations in the world where one can spend three weeks without an Internet connection, the request was nevertheless related with a rather exceptional situation ([WIPO Overview 3.0](#), section 4.6).

Besides, further to the filing of the Complaint, the procedure has been suspended three times, for a total duration of three months, on the ground that the Parties were exploring a possible settlement of the case. The length of the negotiations and the absence of settlement conducted the Panel to consider that new and not-anticipable circumstances may have arisen further to the filing of the Complaint ([WIPO Overview 3.0](#), section 4.6).

Therefore, in this specific context, the Panel found fair for both Parties, that the Respondent be granted five days to submit a Response and, in the event he did, that the Complainant can submit a reply by latest three days after.

Both Parties used the possibly to timely file, respectively, a Response and a reply.

Then, further to the Complainant’s reply the Respondent contacted the Center to “request to file a rejoinder to the pleading filed by the complainant”.

In this respect, the Panel notes that this request is deprived of any substantiation, and that the Respondent was already granted the exceptional possibility to file a late Response.

Moreover, the Panel did not find neither in the Response nor in the Complainant’s reply, any argument or situation related with possible new and un-anticipable facts or circumstances that may have occurred further to the filing of the Complaint and which may justify such a supplemental filing.

In view of all the above, the Panel sees no reason to accept a supplemental filing from the Respondent.

The Panel is all the more convinced of this that he shall ensure that the administrative proceeding takes place with due expedition, especially since the present procedure has been running for an unusual long period of time.

Accordingly, the Panel denies the Respondent’s request to file a supplemental filing.

B. The Complainant's witness statement

In substance, the Respondent considers that the Complaint has to be denied because it is mainly substantiated in an annexed witness statement from the Complainant's representative. According to the Respondent "[f]iling a witness statement without a corresponding pleading creates confusion and disrupts the orderly progression of the case", and also "undermines the principles of fairness, transparency, and efficiency".

First, the Panel finds that this argument mainly consists in conclusory statements, which appear unsupported by any genuine reasoning and legal text relevant for purposes of a proceeding under the Policy.

In particular, the Respondent does not demonstrate why the substantiation of the Complaint in a witness statement would be detrimental to its rights and/or would prevent that both Parties be treated equally, with a fair opportunity to present their case, as required by article 10 (b) of the Rules.

Besides, the present procedure takes place under the Policy, and "the UDRP system is designed to operate in a global context, while rooted in general trademark law principles, in its own terms UDRP jurisprudence generally would not require resort to particular national laws" ([WIPO Overview 3.0](#), section 4.15).

As a consequence, a complaint and the related arguments have to comply with the Policy and the Rules, and the way a complainant substantiates its complaint and, in particular, the form taken by its substantiation are irrelevant as long as they respect these set of rules.

In this respect, the Panel finds nothing in the Policy or in the Rules that may;

- either require to materially include the substantiation of the complaint in the very same document than the complaint itself, and not in an annexed document,
- or prevent to substantiate the complaint through a witness statement.

In any case, according to Rule 10 (d) it is up to the Panel to "determine the admissibility, relevance, materiality and weight of the evidence".

It results from this rule that, even if the substantiation of a complaint takes the form of a witness statement, it nevertheless remains that a complainant has to properly present its case, in particular in complying with the applicable standard of proof in UDRP cases.

In this respect, as mentioned in [WIPO Overview 3.0](#), section 4.2, "[t]he applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence" [...]. Under this standard, a party should demonstrate to a panel's satisfaction that it is more likely than not that a claimed fact is true."

Furthermore, as stated in [WIPO Overview 3.0](#), section 4.2 "conclusory statements unsupported by evidence will normally be insufficient to prove a party's case".

This means that providing a witness statement cannot enable a complainant to validly present its case with mere conclusory statements unsupported by any relevant evidence.

At last, in the present case, the Panel notes that the Complainant's substantiation does not only consists in its representatives' witness statement but that it is also accompanied by supporting evidence in the form of annexed documents.

Given all the above, the Panel will examine the substance of this case and assess the position, and supporting evidence, of both Parties.

6.2 Substantive issues

Pursuant to paragraph 4(a) of the Policy, for obtaining the transfer of the disputed domain name, the Complainant must establish each of the following three 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

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark at the date the Complaint was filed and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

In the present case, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Indeed, it results from the documents supporting the Complaint, and in particular from Annexes 4a, 4b and 4c, that the Complainant is the owner of trademark registrations for ASTON MARTIN, such as those detailed in section 4 above.

Besides, contrary to the Respondent's contentions, having rights in a trademark protected in Anguilla and/or in the field of artificial intelligence, is not required to satisfy the first element in the present procedure.

Indeed, disputes involving domain names registered in the ".ai" ccTLD are subject to the Policy. As a consequence, the jurisdiction where the invoked trademark is valid is not considered relevant to the assessment under the first element. Also, the goods and/or services for which the mark is registered or used in commerce are not considered relevant to the first element test. [WIPO Overview 3.0](#), section 1.1.2.

Turning to whether the disputed domain name is identical or confusingly similar to the Complainant's trademark, the Panel finds that the entirety of the ASTON MARTIN 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 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.

Indeed, the Respondent has not been authorized by the Complainant to register and to use the disputed domain name.

Besides, it results from the Parties' submissions that the Respondent is not commonly known by the disputed domain name.

Furthermore, the disputed domain name is being listed for sale on several domain names marketplaces.

This situation has been established by screenshots supporting the Complainant's contentions and has not been denied by the Respondent. In addition, by virtue of its general powers¹, the Panel has visited the website connected with the disputed domain name and has found that the disputed domain name actually resolves to a page indicating that it is offered for sale.

Offering a domain name for sale is not a non-commercial use, but on the contrary a commercial use.

Of course, selling domain names is not forbidden. However, for the purposes of the Policy such an activity has not to infringe upon third parties' rights, in particular in enabling the Respondent to unduly capitalize or trade on the value of a prior trademark.

In the present case, it results from the documents supporting the Complaint and from the cited decisions (e.g., *Aston Martin Lagonda Ltd v. Shinichi Wanikawa, Wanikawa Shinichi*, WIPO Case No. [D2017-2017](#); *Aston Martin Lagonda Ltd v. Perfect Privacy, LLC / Christian Karam, forexacademy*, WIPO Case No. [D2017-2270](#); or *Aston Martin Lagonda Ltd v. Craig Green*, WIPO Case No. [D2020-0462](#)) that the ASTON MARTIN is globally well-known, enjoys significant reputation worldwide and is even iconic.

As a consequence, the offering for sale of the disputed domain name, which consists in the mere reproduction in the ASTON MARTIN trademark in the ".ai" ccTLD, amounts to capitalizing, not to say speculating, on the value of the Complainant's trademark and, therefore, cannot be considered as a legitimate commercial use, and cannot give rise to rights or legitimate interests in the disputed domain name.

Moreover, the Panel finds that the composition of the disputed domain name in as far it consists in the mere reproduction of the ASTON MARTIN trademark, carries a high risk of implied affiliation and tends to suggest sponsorship or endorsement by the ASTON MARTIN trademark owner, whereas the Respondent is not connected to the latter. This is a further indication of the Respondent's lack of rights and of legitimate interests in the disputed domain name ([WIPO Overview 3.0](#), section 2.5.1).

All these elements conduct the Panel to consider that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and has therefore discharged its burden of proof of the second element of the Policy.

¹ It is well established that the general powers of a panel as articulated inter alia in paragraphs 10 and 12 of the Rules include, among others, the possibility to undertake limited factual researches into matters of public record if the panel considers such information useful to assessing the case merits and reaching a decision. These limited factual researches notably include visiting the website linked to the disputed domain name (see for instance, section 4.8 of the [WIPO Overview 3.0](#)).

The burden of proof now shifts to the Respondent to show that it does have some rights or legitimate interests.

First, the Respondent contends that the Complainant has not properly demonstrated the lack of rights or legitimate interests of the Respondent in the disputed domain name, in particular because “not a solitary document has been proffered in support of its contentions”.

Such a contention cannot be followed by the Panel.

As mentioned above, this would amount to require from the Complainant the difficult, not to say impossible, task of “proving a negative fact”. As mentioned above, that is precisely why it is of constant case-law that a complainant has to make out a prima facie case that a respondent lacks rights or legitimate interests.

In addition, contrary to the Respondent’s contentions, the Complaint is accompanied by supporting evidence.

Besides, the Respondent claims not being involved in the same industry than the Complainant and that it did not register the disputed domain name to disrupt the Complainant’s activities.

Not only the Respondent did not give the least information as to its field of interests (except offering for sale the disputed domain name), but these denials consist in mere conclusory statements and cannot at all explain why the Respondent may have rights or legitimate interests in a domain name impersonating the Complainant’s well-known distinctive and iconic trademark.

In sum, the Respondent is not commonly known by the disputed domain name, is not making a legitimate noncommercial or fair use of the domain name, and is completely silent as to a use or possible preparations to use of the disputed domain name in connection with a bona fide offering of goods or services.

In these circumstances, the Panel finds that the Respondent has not rebutted the Complainant’s prima facie showing that the Respondent has no rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds therefore that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used 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.

Registration in bad faith

The Panel notes that:

- the disputed domain name consists in the mere reproduction of the Complainant’s ASTON MARTIN trademark;
- the Complainant’s trademark is intrinsically distinctive;
- according to the casefile, the use of this trademark predates the registration of the disputed domain names by decades, and even probably by more than a century; and

- as mentioned in section 6.B above, the ASTON MARTIN trademark is globally well-known, iconic and enjoys significant reputation worldwide. This has not only already decided by many panels, but only very few brands have been showcased in series of famous blockbuster movies, such as James Bond, for almost 60 years, while being involved for years in a popular and widely broadcasted sport such as Formula 1.

In this respect, it is of constant case-law that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

- The Complainant has also shown that a mere Google search on its brand along with the term “ai” evidently reveals its rights; and
- in substance, the Respondent claims having proceeded with the registration of the disputed domain name in good faith, without yet providing the least explanation in this respect.

In light of the above, the Panel finds that on the balance of the probabilities the Respondent could not reasonably have been unaware of the Complainant’s ASTON MARTIN trademark when it registered the disputed domain name. The Panel considers that the Respondent fully appreciated that the value of the disputed domain name lays in its identity to the Complainant’s trademark.

As a consequence, the disputed domain name has been registered in bad faith.

As to the use in bad faith, the Panel finds that:

- the disputed domain name is listed for sale on several domain names marketplaces and even directly resolves to a page of one of these marketplaces;
- the Complainant has evidenced (annex 1) that the disputed domain name has been listed for sale at least as from the day following its registration;

as mentioned above i) the disputed domain name is identical to a globally famous and reputed trademark, ii) there is a clear absence of rights and of legitimate interests of the Respondent in the disputed domain name, and iii) the Respondent has provided no evidence of any contemplated good faith use of the disputed domain name.

In the Panel’s view these elements establish the Respondent’s bad faith use and, in particular, that it is using the disputed domain name to capitalize on the value of the Complainant’s trademark.

Indeed, if the Respondent would not intend trading on the value of the Complainant’s trademark or would have a genuine legitimate project of use of the disputed domain name, it would not have listed the disputed domain name for sale as soon as it registered it, and he would have taken the opportunity of its Response to explain its project for the disputed domain name.

Instead, the Respondent is absolutely silent as to why it registered the disputed domain name and mainly, but as shown above, irrelevantly, focus on the fact that the Complainant would not be complying with the applicable standard of proof in UDRP cases, whereas the Complaint is obviously accompanied with supporting evidence, and requests the opportunity to file supplemental filing whereas no new circumstances appeared since the beginning of this procedure, what seems rather dilatory.

As to the decisions on which the Respondent relies, the Panel finds that they are not relevant in the present case:

- *Telect, Inc. v. Arvind Reddy*, WIPO Case No. [D2017-1270](#), as indicated in the paragraph quoted in the Response, the disputed domain name was not offered for sale, contrary to the present case,

- *Telect, Inc. v. Arvind Reddy*, WIPO Case No. [D2017-1270](#); *Billy Bob's Texas IP Holding LLC v. Domain Administrator, Name Administration Inc. (BVI)*, WIPO Case No. [D2016-1221](#); *Coolside Limited v. Get On The Web Limited*, WIPO Case No. [D2016-0335](#); *GWG Holdings, Inc. v. Jeff Burgar, Alberta Hot Rods*, WIPO Case No. [D2016-1420](#); and *JHO Intellectual Property Holdings, LLC, Elite IP Holdings LLC v. Mahad Taheri*, WIPO Case No. [D2020-3504](#): in all these cases the panels considered that the complainants did not provide supporting evidence, what is not the case here in view of the documents annexed to the Complaint to evidence the Complainant's contentions.

At last, and for sake of completeness, this Panel considers that the mere detention of the disputed domain name, in as far as it impersonates a globally very well-known and intrinsically distinctive trademark, in the hands of a third party having no relationship with the Complainant and, furthermore, having immediately offered it for sale after its registration, represents an unbearable threat over the head of the Complainant, all the more that on the contrary to the Respondent's contentions, the field of artificial intelligence, evoked by the ".ai" ccTLD, is not unrelated with the Complainant.

Indeed, the Complainant has demonstrated (through the results of Google searches communicated in annex AN6) that its brand is associated with "artificial intelligence" or "AI", all the more that, more broadly and in this Panel's view, AI is used in the field of automotive.

In view of all the above, 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, <astonmartin.ai>, be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: February 23, 2024