

ADMINISTRATIVE PANEL DECISION

Atlas Copco AB v. Carl White, Shenyang ABT Drilling Equipment CO.,Ltd.
Case No. D2024-1483

1. The Parties

The Complainant is Atlas Copco AB, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Carl White, Shenyang ABT Drilling Equipment CO.,Ltd., China.

2. The Domain Name and Registrar

The disputed domain name <atlas copco.blog> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 8, 2024. On April 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 10, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 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 April 11, 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 April 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 6, 2024.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on May 13, 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 multi-national company headquartered in Sweden. It was founded in 1873. It specializes in the manufacture of industrial tools and equipment. It began using the mark ATLAS COPCO in 1955. The “Copco” element in its name comes from a Belgian subsidiary.

At the end of 2022 the Complainant employed 49,000 employees worldwide and had a revenue of Euros 13 billion. The Complainant is the owner of a number of trademark registrations for both the word mark and logo mark ATLAS COPCO in many jurisdictions. The most relevant registered trademarks (the ATLAS COPCO Marks) are in China, the United States of America, United Kingdom and European Union are as follows:

Trademark	Jurisdiction/TM Office	Registration Number	Registration Date	IC Class
Atlas Copco logo	China/CNIPA	161201	August 15, 1982	12
Atlas Copco logo	China/CNIPA	161197	August 15, 1982	7
Atlas Copco logo	China/CNIPA	4487046	November 7, 2007	7
Atlas Copco logo	United States/USPTO	1526505	February 28, 1989	6, 7, 8, 9, 11, 12, 16, 17, 21, 37, 41, 42
Atlas Copco logo	International WIPO	997914	October 20, 2008	6, 7, 8, 9, 10, 11, 12, 16, 17, 36, 37, 38, 41, 42, 45
ATLAS COPCO	United Kingdom/UKIPO	UK00918231773	October 28, 2020	4, 6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 21, 25, 28, 30, 35, 36, 37, 38, 41, 42, 45
ATLAS COPCO	European Union/EUIPO	018231773	October 28, 2020	4, 6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 21, 25, 28, 30, 35, 36, 37, 38, 41, 42, 45

The Complainant also has an online brand presence through its main websites “www.atlascopco.com” and “www.atlascopco.group.com” which have operated since 1995 and 2005 respectively.

The disputed domain name <atlascopco.blog> was registered on December 1, 2023. According to the evidence provided in the Complaint, the website was used to purportedly offer Complainant’s products.

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 identical or confusingly similar to the ATLAS COPCO Mark in which it claims rights.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular it states that:

- (a) the Respondent is not sponsored by or affiliated with the Complainant in any way;
- (b) the Complainant has not given the Respondent permission, license or authorization to use its trademark in any manner;
- (c) the Respondent is not commonly known by the disputed domain name. The name and business name of the Respondent do not resemble the disputed domain name in any manner;
- (d) at the time that the Complaint was filed the Respondent was using a Privacy Whois service.

Finally, the Complainant states that its ATLAS COPCO Mark is well-known worldwide and it is highly unlikely that the Respondent did not know of the Complainant's legal rights at the time of registration of the disputed domain name on December 1, 2023. The Complainant asserts that the Respondent is an unauthorized reseller of the Complainant's branded products.

As to the well-known *Ok! Data test* (devised to ascertain whether a respondent is making a bona fide offering of the Complainant's goods), the Complainant states that:

- (a) the Respondent has no visible disclaimer to the effect that it has no relationship with the Complainant; and
- (b) the Respondent has falsely claimed that it was wholly acquired by the Complainant in 2006;

As to registration and use of the disputed domain in bad faith, the Complainant states that the Respondent has demonstrated a knowledge of and familiarity with the Complainant's ATLAS COPCO Mark. By using the disputed domain name to sell the Complainant's branded products without authorization, the Respondent cannot claim to have been unaware of the ATLAS COPCO Mark at the time the disputed domain name was registered.

The Complainant says that by using the disputed domain name the Respondent has intentionally intend to attract users to the website at the disputed domain name for commercial gain. The Complainant asserts that this creates a likelihood of confusion from which the Respondent seeks to profit. Further the Complainant contends that the Respondent is using the fame of the Complainant's ATLAS COPCO Mark to improperly increase traffic to the Respondent's website for commercial gain.

The Complainant also claims disruption of its business and that the Respondent has employed a Privacy Whois service to hide its identity.

Finally, the Complainant states that it sent a cease and desist letter to the Respondent on January 2024. This elicited a response from the Respondent that it was unaware that the ATLAS COPCO Marks were registered and that it would discontinue the use of this trademark without permission. Since that communication, the Complainant states that the Respondent has gone silent and, as at the date of the Complaint, had continued to use the disputed domain name to host a website selling the Complainant's branded products without authorisation.

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 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 Complainant has shown rights in respect of a trademark or service mark, i.e., the ATLAS COPCO Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's ATLAS COPCO word mark is reproduced within the disputed domain name. Accordingly, the Panel finds that 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. 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.

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

The Panel also finds that the Respondent's use of the disputed domain name is not justified by the principle that a mark may be used legitimately without its owner's consent to promote a bona fide offering of goods put on the market by its owner: *Oki Data Americas, Inc v ASD, Inc*, WIPO Case No. [D2021-0903](#). This principle can only be invoked under the Policy as follows:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the website to sell only genuine trademarked goods or services;
- (iii) the website must accurately and prominently disclose the respondent's relationship with the trademark owner; and
- (iv) the respondent must not try to corner the market in all domain names and thus deprive the trademark of reflecting its own mark and a domain name.

If even one of these requirements is not met, the respondent fails the test and has no rights or legitimate interests in the disputed domain name, see *ADIDAS AG v. Glenn Tart*, WIPO Case No. [D2022-4350](#).

The Panel is satisfied that the Respondent is not able to claim the benefit of the *Oki Data* “safe harbor”. The Respondent’s website located at the disputed domain name (as at the date of the Complaint) made prominent use of the Complainant’s ATLAS COPCO Mark but provided no explanation whatsoever of its relationship with the Complainant. This use carries with it a construction of implied association with the Complainant (the trademark holder) and for this reason cannot constitute legitimate or fair use.

For all the foregoing reasons 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.

The Panel is satisfied that the disputed domain name has been registered in bad faith for the following reasons:

(a) The Panel is satisfied that the Complainant’s ATLAS COPCO Mark has an established reputation in respect of the Complainant’s goods and services as a result of its worldwide operations, trading history and length of use since 1955.

Paragraph 2 of the UDRP puts the burden on registrants where it states:

“By applying to register a domain name, or asking us to maintain or renew a domain name registration, you hereby represent and bond to us that:[...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else’s rights.”

Even a cursory search carried out by the Respondent would have revealed the Complainant, its trademark rights and its established use of the ATLAS COPCO Mark.

The Panel is satisfied further that the Respondent had knowledge of the Complainant’s ATLAS COPCO Mark when it registered the disputed domain name. The combination ATLAS COPCO is unusual, distinctive and well known. Upon registration, the website established by the Respondent at the disputed domain name made prominent use of the ATLAS COPCO Mark including in its distinctive logo format. This use confirms that the Respondent knew of the Complainant and its ATLAS COPCO Mark at the time of registration.

Two other matters demonstrate the Respondent’s clear awareness of the Complainant. The website at the disputed domain name made the false statement that “[I]n 2006 ABT was wholly acquired by Atlas Copco Group, the world’s top air compressor supplier”. Further the Respondent’s website stated that “ABT complies with the Atlas Group’s design philosophy and the standardized production ...”

The Panel is also satisfied that the Respondent is using the disputed domain name in bad faith for the following reasons:

(a) As a result of the inclusion of the Complainant’s ATLAS COPCO Mark in the disputed domain name, Internet Users will be attracted to the disputed domain name thinking that it is the Complainant or is connected with the Complainant when there is no such connection. This creates a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement. The likelihood of confusion is added to by the incorrect statement on the website located at the disputed domain name and mentioned above (i.e., that the Respondent’s business “was wholly acquired by [the Complainant] the world’s top air compressor supplier” in 2006.) The Panel is satisfied that the Respondent is using the ATLAS

COPCO Mark for the purpose of commercial gain and to attract Internet Users to its website and advertised goods and services.

(b) The Respondent's registration of the disputed domain name is a disruption to the Complainant's business and prevents the Complainant from reflecting its ATLAS COPCO Mark in a corresponding domain name registration;

(c) The Respondent's response to the Complainant's cease and desist letter on January 23, 2024, did not deny that it knew of the Complainant and its ATLAS COPCO Mark. Its only response was that it did not know the trademark had been registered. The response concluded "we will not use any trademarks without permission, and will keep it in mind". Despite this statement of intent, the Respondent did not cease the use of the disputed domain name by the date of the Complaint.

(d) The Panel is entitled to draw adverse inferences from the failure of the Respondent to further deal with the Complainant after this correspondence and, subsequently, its failure to respond to the Complaint and factual allegations made by the Complainant. Those failures support the Panel's conclusion that the use of the disputed domain name is in bad faith.

Based on the available record, 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 <atlascope.blog> be transferred to the Complainant.

/Andrew Brown K.C./

Andrew Brown K.C.

Sole Panelist

Date: May 27, 2024