

ADMINISTRATIVE PANEL DECISION

AL Advisors Management, Inc. v. Mahoja “Angelist” Kotyc
Case No. D2023-3814

1. The Parties

The Complainant is AL Advisors Management, Inc., United States of America, represented by Cerebral Assets, LLC, United States of America.

The Respondent is Mahoja “Angelist” Kotyc, Czech Republic.

2. The Domain Name and Registrar

The disputed domain name <angelist.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2023. On September 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 2023, the Registrar transmitted by email to the Center its verification response:

- (a) confirming the disputed domain name is registered with it;
- (b) confirming the language of the registration agreement is English; and
- (c) disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint (Domain Admin Whois protection, this company does not own this domain name s.r.o.).

The Center sent an email communication to the Complainant on September 14, 2023, 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 amendment to the Complaint on September 25, 2023.

The Center verified that the Complaint together with the amendment to 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 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 20, 2023.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on November 2, 2023. 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 an American company which provides services connecting start up businesses, angel investors and limited partners with the objective of helping start up businesses raise capital, hire talent, and grow their businesses.

The Complainant registered the domain name <angellist.com> on September 7, 2003. It has been using that domain name in connection with a publicly facing website since at least July 6, 2010.

The Complainant is the owner of:

- (a) United States Registered Trademark No. 5,574,541, ANGELLIST (stylized), which was registered on October 2, 2018, in the Principal Register in respect of business development services in International Class 35 and venture capital funding and associated services in International Class 36; and
- (b) United States Registered Trademark No. 5,949,719, ANGELLIST (plain type), which was registered in the Principal Register on December 31, 2019, in respect of providing an online database in International Class 35 and education services and online journals associated with venture capital activities in International Class 36.

The disputed domain name was registered on May 11, 2008.

According to a domain history report included in Annex 10 to the Complaint, there have been seven different holders since then. Further, it appears that the disputed domain name was first transferred into and held by the current Respondent in or about August 2016.

The content and style of the website to which the disputed domain name has resolved has also varied over time. At times, the disputed domain name has resolved to websites which, according to the Complainant appear to have mimicked another site, Annie'sList.com, or other pages which the Complainant describes as knock-off pages.

When the Complaint was filed, the disputed domain name redirected to a number of different websites. One of these was the website at "www.groupon.com". Another redirect generated a threat warning about illegal or malicious content.

The disputed domain name is offered for sale on "www.afternic.com" for USD 99,999.00.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the registrant of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (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.

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.

The Complainant has proven ownership of registered trademarks for ANGELLIST.

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.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top-Level Domain ("gTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".com" gTLD, the disputed domain name consists of the Complainant's registered trademark with a single "l" rather than a double "l". This is an obvious misspelling of the Complainant's trademark and, accordingly, leads to a finding of confusing similarity. See e.g. [WIPO Overview 3.0](#), section 1.9. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Based on the available record, therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The second requirement the 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.

While 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 often impossible 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. 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 states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent's formal name.

The name in which the disputed domain name has been registered, however, does include “Angelist”. It is presented in a way which suggests it is a nickname or stage name rather than the Respondent's formal legal name.

As there is a high potential for a respondent to adopt a name, other than their own formal name or conventional variants, to claim a right derived from the adopted name and to mask the respondent's true purpose, it is not usually sufficient for a respondent merely to assert that the putative name is a name by which the respondent is genuinely known. Usually, some sort of objective documentary evidence is required to be presented to corroborate the claim. See e.g. [WIPO Overview 3.0](#), section 2.9.

In the present case, the Complainant has disputed that “Angelist” is a name by which the Respondent is known. The Respondent, in defaulting, has not sought to defend his or her name or to provide evidence supporting a claim to be known as “Angelist”.

Moreover, use of the disputed domain name to offer it for sale and, pending that sale, to generate revenue through pay-per-click (“PPC”) links does not qualify as a legitimate noncommercial or fair use for the purposes of paragraph 4(c)(iii) of the Policy. In addition, it does not qualify as a good faith offering of goods or services for the purposes of paragraph 4(c)(i). That is all the more the case when the disputed domain name redirects to a website which appears to be illegal or otherwise malicious.

These matters, taken together, are sufficient to establish a *prima facie* case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has registered the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that *prima facie* case or advance any claimed entitlement. Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g. *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

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.

Pointing to the high price for which the disputed domain name is offered for sale and the lack of any apparent connection between the Respondent's real name, or any business or other genuine activity, the Complainant contends that the Respondent has registered the disputed domain name for one or more of the purposes set out paragraph 4(b) of the Policy:

"b. Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

On the information before the Panel, there is a strong inference available that the Respondent registered the disputed domain name for one or both of the reasons set out in paragraph 4(b)(i) or (iv).

As noted above, the disputed domain name can be seen as a misspelling of two ordinary English words. In combination, they may arguably be seen as descriptive in some contexts. There is no evidence before the Panel of the extrinsic value such a domain name might have.

Furthermore, it appears that the Respondent registered the disputed domain name before the Complainant registered its trademarks. However, the evidence indicates that the Complainant has been promoting its services from the website to which the domain name <angellist.com> resolves since 2010. That is, at least six years before the registration of the disputed domain name. In such circumstances, and in the absence of evidence that the Respondent was known as "Angelist" before the registration of the disputed domain name, an inference is available that the Respondent was aware of the Complainant's trademark albeit unregistered at that time. See e.g. [WIPO Overview 3.0](#), section 3.8.2.

Accordingly, the very high price at which the disputed domain name is offered for sale, in the absence of rights or legitimate interests in the disputed domain name and any explanation or justification for how the price has been arrived at, strongly support a finding of registration and use in bad faith.

Based on the available record, therefore, the Panel finds the third element of the Policy has been established.

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, <angelist.com>, be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: November 20, 2023