

## **ADMINISTRATIVE PANEL DECISION**

Atlassian Pty Ltd. v. Akash Biradar, Atlassian  
Case No. D2024-5034

### **1. The Parties**

Complainant is Atlassian Pty Ltd., Australia, represented by Morrison & Foerster, LLP, United States of America (“United States”).

Respondent is Akash Biradar, Atlassian, India.

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

The Domain Name <atlassianind.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 December 6, 2024. On December 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 6, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on December 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on December 10, 2024. Respondent sent an email to the Center on December 10, 2024.

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 Respondent of the Complaint, and the proceedings commenced on December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. Respondent sent emails to the Center on December 12 and 16, 2024; however, Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on January 2, 2025.

The Center appointed Marina Perraki as the sole panelist in this matter on January 8, 2025. 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**

Complainant is a leading provider of software and related services. It develops and provides products for software developers, project managers, and other teams, and offers downloadable software and cloud-based software as a service (SaaS) in a number of areas, including project management, team collaboration, content sharing, document and database management, software development tools and IT service management. Its clientele encompasses nearly 300,000 large and small organizations worldwide. Per Complaint, Complainant is using ATLIASSIAN and ATLIASSIAN formative trademarks for its software and related services since 2002.

Complainant owns trademark registrations for ATLIASSIAN, including:

- the United States trademark registration No. 3667007, ATLIASSIAN (stylised), filed on August 12, 2008 and registered on August 11, 2009, for goods and services in international classes 9, 38 and 42;
- the Indian trademark registration No. 2612741 ATLIASSIAN (word), filed and registered on October 15, 2013 for goods in international class 9; and
- the International trademark registration No. 1306601, designating, inter alia, India, ATLIASSIAN (word) registered on March 24, 2016 for goods and services in international classes 9, 38 and 42.

Complainant is also the owner of the domain name <atlassian.com>, registered on March 19, 2001 which leads to Complainant's main website.

The Domain Name was registered on July 11, 2024 and redirects to Complainant's official website at "www.atlassian.com". Furthermore, according to WhoIs records, the Domain Name owner organization appears as "Atlassian".

Additionally, Respondent has configured an MX record for the Domain Name. Per Complaint, to Complainant's knowledge, Respondent is using the Domain Name for a fraudulent phishing scheme on Complainant's customers. Complainant is aware of at least two instances where an email was sent from an address composed of the Domain Name [...]@atlassianind.com, that impersonated a member of Complainant's "Customer Success" team and solicited information from the recipient purportedly advising on Complainant's "pricing and discounts" and, in one instance, Respondent provided banking information associated with "Atlassian India" to receive payment intended for Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

##### **B. Respondent**

Respondent did not formally reply to Complainant's contentions. On December 10, 2024, he sent an email communication to the Center asking for clarification regarding the Complaint, on December 12, 2024, he wrote stating that he would like to suspend the proceedings, and on December 16, 2024, he communicated that he wanted to suspend the proceedings and begin settlement talks.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements that Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### 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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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.

The entirety of the ATLASSIAN mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the term "ind" after ATLASSIAN, short for India, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison as they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); and *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

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 Respondent may demonstrate rights or legitimate interests in a 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

On the contrary, as Complainant demonstrated, the Domain Name was used to create an email address used in a fraud scheme. Use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#), section 2.13.1).

Furthermore, the Domain Name redirects to Complainant's group's website at "www.atlassian.com". A respondent's use of a complainant's mark to redirect users to Complainant's site would not support a claim to rights or legitimate interests ([WIPO Overview 3.0](#), section 2.5.3). This also indicates that Respondent knew of Complainant and chose the Domain Name with such knowledge (*Safepay Malta Limited v. ICS Inc*, WIPO Case No. [D2015-0403](#)). The Panel also notes that Respondent has used "Atlassian" as the organization name when registering the Domain Name. The Panel finds that using such name cannot confer any rights or legitimate interests on Respondent under the circumstances of the case. On the contrary, this demonstrates Respondent's intention to deceive Internet users and email recipients into believing that the Domain Name is owned and used by Complainant.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may 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.

Because the ATLASSIAN mark had been used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name. This also in view of the fact that the Domain Name incorporates Complainant's mark in total, along with the country abbreviation for India. Furthermore, the Domain Name redirects to Complainant's website, which clearly shows that Respondent knew of Complainant and targeted the same. Last, it was used in a fraudulent email scheme impersonating Complainant. Therefore, Respondent clearly knew of Complainant and its trademark.

As regards bad faith use, the Panel considers the following factors:

- (i) the use of the Domain Name in the fraud scheme which involved impersonating employees of Complainant and sending emails purportedly sent by Complainant;
- (ii) the failure of Respondent to submit any formal response;
- (iii) the use of false registered Respondent information in the Whois records, including the company organization name appearing as "Atlassian"; and
- (iv) the fact that the Domain Name redirected to Complainant's own website.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 Domain Name <atlassianind.com> be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: January 22, 2025