

ADMINISTRATIVE PANEL DECISION

The Founders Inc. v. David Barr, AnuaPure
Case No. D2024-5282

1. The Parties

The Complainant is The Founders Inc., Republic of Korea, represented by Marq Vision Inc., United States of America.

The Respondent is David Barr, AnuaPure, United States of America.

2. The Domain Name and Registrar

The disputed domain name <anuapure.com> is registered with Tucows Domains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 24, 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 amendment to the Complaint on December 31, 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 the Respondent of the Complaint, and the proceedings commenced on January 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2025. On January 13, 2025, the Registrar forwarded what appears to be the Respondent’s email communication to the Center. The Center sent a Possible Settlement email to the Parties at the same day. The Complainant requested suspension by email on January 17, 2025, and the proceedings were suspended until February 21, 2025. The proceedings were reinstituted on

February 21, 2025 upon the Complainant's request, and the due date for Response was February 27, 2025. The Respondent did not submit any formal Response.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on March 7, 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

The Complainant is a company operating globally and recognized for its flagship skincare brand "Anua". The Complainant operates a website at <anua.kr>.

The Complainant owns various ANUA trademarks, including International Registration No. 1546316 registered on July 1, 2020.

The disputed domain name was registered on September 6, 2024 and directs to a website prominently featuring the Complainant's ANUA trademark and purporting to offer the same or similar products as the Complainant.

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. In particular, the Complainant contends that the website at the disputed domain name purports to offer the same or similar services as the Complainant and is deliberately using product photos of the Complainant's goods, in an intent to deceive consumers. The Complainant claims that this deliberate misrepresentation aims to create the false impression that the Respondent is affiliated with or represents the Complainant, thereby exploiting the disputed domain name for commercial gain. According to the Complainant, the Respondent not only impersonates the Complainant in bad faith but also uses the disputed domain name to defraud the Complainant's customers for personal gain. The Complainant states that the website at the disputed domain name features a registration page that seeks to exploit the Complainant's trademark by simply adding the word "pure" to mislead users.

B. Respondent

The Respondent has not submitted any formal Response to the Complainant's contentions. A communication apparently from the Respondent, forwarded to the Center by the Registrar, stated that:

"In response to your email, I just received the complaint in the mail on Jan 4, 2025. I haven't even logged into email in several months. I hired a firm to build me a shopify store and the name anuapure was suggested by them and when i was setting up the shopify store when i searched domains through shopify the domain anuapure.com was available and I got it. I wasn't aware of the work involved in trying to make an online store through shopify and I do not have the time or energy to invest in that at this time, I have not even completed building the store, so I am very willing to give up the domain. I just don't know how to do that."

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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Complainant's trademark ANUA is reproduced within the disputed domain name. Accordingly, the disputed 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 "pure") 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that 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 that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has provided evidence that the website has been created to give an impression of being a website of or associated with the Complainant. Furthermore, the Panel notes that the Complainant's evidence shows a login page at the disputed domain name asking for email addresses of Internet users under an "Anua" logo (that resembles the Complainant logo). 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 that the composition of the disputed domain name incorporating the Complainant's trademark, coupled with the use of the disputed domain name to resolve to a website in which the Respondent attempts to pass itself off as the Complainant, does not amount to a bona fide offering of goods or services. For the sake of completeness, even if the Respondent was to be reselling the Complainant's products (although this argument was not advanced by the Respondent), noting the composition of the disputed domain name, and its website creating an impression of affiliation or endorsement with the Complainant, the Panel finds that such registration and use of the disputed domain name would not give rise to rights or legitimate interests under the Policy.

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

C. Registered and Used in Bad Faith

Under the circumstances of this case, including the composition and use of the disputed domain name incorporating the Complainant's mark together with the term "pure", it can be inferred that the Respondent was aware of the Complainant's mark when registering the disputed domain name.

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, 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.

Having reviewed the available record, and noting the composition of the disputed domain name, under the circumstances of this case, the Panel finds that the use of the disputed domain name to impersonate the Complainant or to create an impression of affiliation, purportedly selling the Complainant's ANUA branded merchandise through a web store displaying the Complainant's trademark supports a finding of bad faith under the Policy. Furthermore, the Respondent's claim that the name was suggested by a firm hired to build a Shopify store would not exempt the Respondent from its responsibility as a registrant of a domain name. In the Panel's opinion, the Respondent's claim seems pretextual, and it does not match the use of the disputed domain name. The Panel notes the disputed domain name has been used for a website reproducing photos of the Complainant's products, and to gather email addresses of the Complainant's customers, while slightly modifying the Complainant's logo reproduced on the website at the disputed domain name.

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 <anuapure.com> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: March 19, 2025