

ADMINISTRATIVE PANEL DECISION

Universal Services of America LP v. Erik Deutsch
Case No. D2025-2493

1. The Parties

Complainant is Universal Services of America LP, United States of America (“United States”), represented by Morrison & Foerster, LLP, United States.

Respondent is Erik Deutsch, United States, represented by MOTSNYI IP GROUP, Serbia.

2. The Domain Name and Registrar

The disputed domain name <ausfail.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 June 24, 2025. On June 25, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 25, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 8, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 12, 2025.

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 Respondent of the Complaint, and the proceedings commenced on July 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2025. The Response was filed with the Center on July 28, 2025.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on August 6, 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.

On August 7, 2025, Complainant submitted an unsolicited submission and on August 12, 2025, Respondent filed an objection to such. The Panel issued a procedural order on August 18, 2025 granting Complainant until August 20, 2025 to file a brief response to Respondent's objection to Complainant's unsolicited filing. Complainant did not file a response.

4. Factual Background

Complainant, Universal Services of America, LP, is a security and facilities services company providing private security services and smart security technology. Complainant provides its services through security and technology professionals to protect against physical and cyber threats. Complainant provides its services, inter alia, under the names and marks ALLIED UNIVERSAL, ALLIED UNIVERSAL SECURITY SERVICES, and AUS. Of particular relevance in this matter, Complainant owns a word mark registration for AUS in the United States for some of its services (No. 7,142,752), which issued to registration on August 22, 2023, and a registration for AU (No. 5,997,765), which issued to registration in February 2020. Complainant also owns and uses the domain name <aus.com> for a website concerning Complainant's Allied Universal company and services.

Respondent is a US citizen and works as a public relations professional. On June 7, 2023, Respondent filed a civil action against Complainant in the Superior Court of the State of California for the County of Los Angeles based on an alleged "negative experience with Complainant." That case is currently pending.

On March 16, 2025, Respondent registered the disputed domain name. At some point thereafter, Respondent used the disputed domain name for a website that appears to aggregate third party articles and reports critical of Complainant and its services. Respondent has apparently promoted Respondent's website at the disputed domain name through social media channels and through an email campaign. The website at the disputed domain name remains in place as of this date.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it is a leading security and facility services company at a global and local level for more than 60 years and that it is well-known in the private security market. Complainant also claims rights in the name and mark AUS, through its registration of that mark and through its ownership and use of the domain name <aus.com> for Complainant's website.

Complainant asserts that the disputed domain name is confusingly similar to Complainant's AUS mark and domain name as it fully incorporates the AUS mark.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name as Respondent (i) has not made a use of the disputed domain name with a bona fide offering of good or services, (ii) is not commonly known by the disputed domain name, and (iii) is not making a legitimate noncommercial or fair use of the disputed domain name.

Complainant also maintains that Respondent is using the disputed domain name "to compile defamatory statements about Complainant and taking measures to specifically target Complainant's current and potential investors and customers in an effort to tarnish Complainant's reputation and the goodwill associated with

Complainant's AUS trademarks." Complainant notes that Respondent has (i) purchased backlinks or links from other websites so that Respondent's website appears higher in search results, (ii) used social media platforms to post defamatory content about Complainant, (iii) used hashtags to increase the visibility of Respondent's website, and (iv) "initiated a coordinated email campaign targeting Complainant's investors and customers in order to promote the Disputed Domain Name webpage."

In all, Complainant argues that Respondent is not acting legitimately but maliciously to disrupt Complainant's position in the private security market by "targeting Complainant's public image." Complainant also argues that Respondent may be seeking to "leverage this disruption for Respondent's own personal gain" in Respondent's lawsuit against Complainant and "to satisfy Respondent's own personal vendetta against Complainant." Complainant also notes that in 2008 Respondent was found to have acted in bad faith and without a legitimate interest by using a disputed domain based on another's trademark to "post disparaging comments under the guise of criticism."

Lastly, Complainant contends that Respondent has registered and used the disputed domain name in bad faith. In that regard, Complainant maintains that Respondent's above actions demonstrate that Respondent, a public relations professional, was well aware of Complainant and its prior rights in the AUS mark and has registered and used the disputed domain name to disrupt Complainant's business by compiling defamatory statements and allegations about Complainant.

Complainant also argues that Respondent's actions to publicize Respondent's website at the disputed domain name further underscores Respondent's bad faith. Complainant maintains that Respondent's actions are malicious and meant to tarnish Complainant's reputation and the goodwill associated with the AUS mark, whether as a "personal crusade" by Respondent or on behalf of a client.

B. Respondent

Respondent rejects Complainant's contentions.

Respondent does not contest the first element, but notes that the disputed domain name includes the term "fail," which Respondent contends is relevant to the second and third elements.

Respondent maintains that he has a legitimate interest in the disputed domain name. Respondent explains that he had a negative experience with Complainant and filed a lawsuit against Complainant. Respondent further notes that the disputed domain name has been used to provide Respondent's "personal criticism of Complainant and criticism of Complainant aggregated from various public sources," all in an effort "to help expose failures at Complainant's organization."

Respondent argues that neither the disputed domain name, which includes the critical term "fail," nor Respondent's website have ever impersonated Complainant. Respondent also argues that the disputed domain name and the associated website are not misleading and are being used by Respondent for genuine noncommercial criticism. Respondent further contends that Complainant has not provided any evidence that Respondent is working for some other party to disrupt Complainant's business or that Respondent is seeking to disrupt Complainant's business.

Respondent maintains that the fact he is a founder and principal of a public relations firm and has used legitimate means to inform the general public about his website is irrelevant and does not negate his legitimate right to use the disputed domain name for genuine noncommercial criticism of Complainant. In that regard, Respondent asserts that his website is noncommercial and that Complainant has provided no evidence that Respondent's use of the disputed domain name is pretextual.

Lastly, Respondent maintains that he did not register or use the disputed domain name in bad faith. Respondent reiterates that he "did not register and has never used the disputed domain for any commercial purpose or otherwise to take advantage of Complainant's mark" and only did so "for criticism of Complainant, providing Respondent's own critical opinion about Complainant and providing access to numerous publicly

available sources critical of Complainant.” Respondent further asserts that “he is entitled to inform others about his website through various channels (including social media and email) and this does not negate his legitimate interest and does not establish bad faith.” Finally, Respondent submits that he has not tarnished Complainant’s mark and that the website at the disputed domain name “is genuinely critical informing a general public about Complainant’s failures.”

6. Preliminary Consideration: Complainant’s Supplemental Submission and Respondent’s Objection

On August 7, 2025, Complainant submitted an unsolicited supplemental filing. On August 12, 2025, Respondent filed an objection to Complainant’s supplemental filing asserting that Complainant has provided no exceptional circumstances that would justify the supplemental filing which is nothing more than a rebuttal of Respondent’s response repeating the same arguments previously made by Complainant. The Panel provided Complainant with an opportunity to respond to Respondent’s objection, but Complainant did not file anything.

Neither the Policy nor the Rules provide a party with an automatic right to submit additional arguments or evidence. Under paragraph 10 of the Rules, panels enjoy broad powers for conducting administrative proceedings, provided that the parties are treated fairly and the proceedings are conducted expeditiously. Within this framework, a panel can determine within its sole discretion whether to admit or reject supplemental submissions, and, under paragraph 12 of the Rules, to request further statements or documents from either party. In exercising this discretion, many panels have made clear that additional evidence or submissions should only be admitted in exceptional circumstances, such as, by way of example, where new pertinent facts arise after the submission of the complaint or where a party could not have reasonably known of the existence, relevance or veracity of further material when it made its primary submission. See, e.g., *Office Club, Ltd. v. John Adem*, WIPO Case No. [D2000-1480](#); *Gordon Sumner, p/k/a Sting v. Michael Urvan*, WIPO Case No. [D2000-0596](#); *The E.W. Scripps Company v. Sinologic Industries*, WIPO Case No. [D2003-0447](#); *Cerulean Studios, LLC v. Hexuan Cai*, WIPO Case No. [D2013-0902](#). The Panel agrees with this position and adds that further material should only be admitted to the extent necessary in a proceeding and when such is essential in reaching a fair decision on the facts of the matter.

In the instant case, and after reviewing the Complaint and Respondent’s response, the Panel does not believe there are exceptional circumstances in this matter that warrant the acceptance of this supplemental filing that mostly reargues points already made by Complainant. That being said, and for purposes of reaching a fair decision, the Panel is willing to accept an exhibit provided by Complainant from Respondent’s pending lawsuit against Complainant. The document is a court filing made by Respondent on May 1, 2025 entitled “Plaintiff’s CCP §998 Statutory Offer to Compromise Made to Defendant Universal Protection Service, LP.” In that filing, Respondent makes an offer to settle his lawsuit against Complainant for USD 100,000.

With regard to the remainder of Complainant’s supplemental filing, the Panel declines to accept such unsolicited filing for the reasons noted above and has disregarded it in reaching its decision.

7. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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 disputed 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 the AUS mark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.2.1., and that such is incorporated in its entirety in the disputed domain name. Respondent does not contest the first element. As such, 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 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.

Here, Complainant maintains that Respondent has no rights in the AUS mark and has used the disputed domain name to disrupt Complainant's business and to tarnish the reputation of Complainant and goodwill of the AUS mark, Complainant also argues that Respondent has used the disputed domain name and associated website for leverage purposes in Respondent's pending lawsuit against Complainant – and to presumably secure a favorable resolution.

Having reviewed Respondent's website, it is apparent that it largely aggregates news reports and information that is critical of Complainant. Thus, the issue before the Panel is whether Respondent is making a fair use of the disputed domain name by using such in connection with a website that appears to be critical of Complainant and its business.

Under Paragraph 4(c)(iii) of the Policy, the use of a domain name for a fair use such as noncommercial free speech, can in principle support a respondent's claim to a legitimate interest under the Policy. In assessing cases of claimed free expression, the Panel undertakes a holistic assessment that includes the important initial question of whether a disputed domain name is being used to impersonate Complainant, or put another way, whether the public would perceive the disputed domain name as being affiliated with or authorized by a complainant. [WIPO Overview 3.0](#), section 2.5.1. Building on this initial inquiry, panels often consider additional factors to assess whether a respondent is using the disputed domain for bona fide noncommercial criticism concerning a complainant or to take advantage of a complainant's mark in a bad faith or abusive way for the benefit of a respondent. See, e.g., *Everytown for Gun Safety Action Fund, Inc. v. Contact Privacy Inc. Customer 1249561463 / Steve Coffman*, WIPO Case No. [D2022-0473](#).

Looking at the disputed domain name, the Panel first notes that the disputed domain name does not solely consist of Complainant's AUS mark (i.e., it is not identical) and does not use the AUS mark with a term that would likely conjure up an association or affiliation with Complainant. Rather, the inclusion of the term "fail" in the disputed domain makes it evident that the disputed domain name is not meant to impersonate Complainant per se, but instead is aimed at referring to Complainant negatively. The particular composition of the disputed domain name, especially when viewed in the context of Respondent's website (which

includes the title “Allied Universal Security FAIL When private security protects neither safety nor property” along with a disclaimer (at the head and tail of the website)), makes it unlikely that Internet users will mistakenly perceive the disputed domain name as being affiliated with, sponsored by or otherwise connected to Complainant.

With regard to the website associated with the disputed domain name, a review of Respondent’s website and the exhibits provided by the Parties shows that at all relevant times it has been noncommercial in nature and consisting of articles, reports, and posts that are critical of Complainant along with a “Timeline / Case & Incident Tracker” created by Respondent setting out various alleged incidents involving claimed failures by Complainant or its employees. There is certainly no evidence that the website at the disputed domain name has been used for a per se commercial purpose, although, as addressed further below, there is a question as to Respondent’s timing and rationale in creating the website.

Complainant maintains that Respondent “is using the Disputed Domain Name to compile defamatory statements about Complainant” or, simply put, that Respondent’s website is posting defamatory content to harm and disrupt Complainant’s business. In making that claim, though, Complainant has not provided any evidence tending to show that what Respondent has aggregated on his website is fictional, untrue, pretextual, or defamatory. To be sure, it is not within the scope of the Policy for a panelist to assess the accuracy or truthfulness of comments that appear critical of Complainant, particularly where, as here, most of the postings come from third parties (such as legitimate news sources). To the extent Complainant believes the content of Respondent’s website is defamatory, a UDRP proceeding is not the proper forum for adjudicating such a claim.

Complainant also argues that Respondent is tarnishing the reputation of Complainant and its AUS mark by going beyond what is necessary to provide legitimate criticism and opinion concerning Complainant. In making that claim, Complainant focuses on actions by Respondent to publicize his website and to attract Internet users to his website. Complainant contends without any evidence that Respondent purchased backlinks or links from other websites, a contention that Respondent claims is untrue. Complainant also points to social media postings made by Respondent and emails sent by Respondent to at least one of Complainant’s former investors, which Complainant claims “includes defamatory allegations regarding Complainant’s business”, as proof that Respondent is embarked on a malicious campaign to target Complainant’s current and potential investors and customers in order to tarnish Complainant’s reputation.

Beyond the fact that Complainant provides no details on or evidence establishing the claim of “alleged defamatory allegations,” the fact that Respondent has attempted to attract and drive traffic to his website that contains news report and postings that are critical of Complainant is not in and of itself proof that Respondent lacks a legitimate interest in using the disputed domain name for a website critical of Complainant. There is no evidence that Respondent tried to impersonate Complainant or mislead consumers into believing the postings or emails came from Complainant. The one email and the social media postings provided by Complainant are not deceptively designed and do not use a false pretense to mislead Internet users or recipients to Respondent’s website. The postings and email are quite direct in explaining Respondent’s website and its purpose of aggregating news reports and other information detailing failures by Complainant and its employees. Accordingly, it is unlikely that these communications would cause confusion or be seen as emanating from Complainant.

As an aside, the Panel again notes that a UDRP is limited in its scope. If the means used by Respondent to publicize Respondent’s website somehow violate some claimed trademark, copyright, or other right of Complainant, then such should be adjudicated in a different forum and not in a UDRP proceeding which is focused on whether cybersquatting has occurred.

Complainant also repeatedly claims that Respondent is attempting to tarnish Complainant’s reputation and trademarks through his website and actions in publicizing the website. That contention is undermined by the evidence before the Panel.

As explained in *Sermo, Inc. v. CatalystMD, LLC*, WIPO Case No. [D2008-0647](#), “[a]lthough it is true that [r]espondent’s criticism is meant to harm [c]omplainant’s reputation and drive physicians away from [c]omplainant’s services, that is not the kind of ‘tarnishment’ prohibited by the Policy. Rather [. . .] tarnishment in the context of the UDRP refers to unseemly conduct [impairing] an otherwise wholesome mark. [. . .] Fair-use criticism, even if libelous, does not constitute tarnishment and is not prohibited by the Policy; rather, claims sounding in commercial libel must be brought in other legal venues.”

Here, while there is no dispute that Respondent’s website is not flattering to Complainant and is critical of Complainant and its business, there is no evidence that Respondent has engaged in “unseemly conduct” of the type that is typical in a claim of tarnishment, such as redirecting a disputed domain name to pornographic, scandalous, or criminal materials, or by linking such to websites promoting unsavory services or a disreputable business. In all, Respondent has simply used the disputed domain name, that on its face contains the negative term “fail,” for a website that aggregates negative postings about Complainant by third parties and which in its totality is critical of Complainant. This is hardly the form of “unseemly conduct” contemplated by the Policy for a claim of tarnishment.

Lastly, Complainant suggests that Respondent’s actions which target Complainant’s public image have been done as leverage “for Respondent’s own personal gain in litigation and to satisfy Respondent’s personal vendetta against Complainant.” In making that claim, Complaint asserts that Respondent only registered and started using the disputed domain name two years after he filed his lawsuit against Complainant and likely did so to gain “leverage in his lawsuit against Complainant by swaying the public’s opinion on Complainant.” Additionally, Complainant has provided a court filing made by Respondent on May 1, 2025 entitled “Plaintiff’s CCP §998 Statutory Offer to Compromise Made to Defendant Universal Protection Service, LP.” In that filing, Respondent makes an offer to settle his lawsuit for USD 100,000.

Given the timing of the registration and use of the disputed domain name and the offer of settlement, the question before the Panel is whether Respondent’s website and actions are pretextual and being done solely to gain an advantage over Complainant. On one level, Respondent’s actions could be seen as an effort by Respondent to force a favorable resolution of Respondent’s claims against Complainant. But under that logic then many genuinely noncommercial criticism websites would arguably be seen as being attempts to gain leverage over another party. For example, a gripe site concerning a company could be seen as an attempt by a party to gain leverage in order to obtain some form of restitution from the company. Such arguments would unfairly convert many criticism sites into borderline commercial endeavors based on speculation on the benefits being sought by the operator of such sites; and in this case there is a meaningful distinction between seeking to be made whole, and seeking outright commercial gain. To be sure, such speculation is not within Panel’s purview in a UDRP proceeding, but requires more than unsubstantiated and conclusory allegations.

Here, the Panel notes that Respondent’s lawsuit against Complainant was filed in June 2023. The registration of the disputed domain name and Respondent’s website only arose in March 2025, and on May 1, 2025 Respondent filed its offer of settlement in its lawsuit. The foregoing does suggest that the appearance of Respondent’s website is probably linked to Respondent’s grievances against Complainant. But that does not make the use of the disputed domain name improper given that it does not impersonate Complainant, and the website is noncommercial in nature and is genuinely critical of Complainant. While the website may assist Respondent in reaching a resolution of his dispute with Complainant, there is no evidence that supports the contention that Respondent is seeking to do so as a pretext to extract a payment from Complainant as opposed to addressing a legitimate grievance. The offer of settlement filed by Respondent on May 1, 2025 does not concern Respondent’s website or the disputed domain name but rather requests a “full settlement of all claims that [Respondent] has brought, or could have brought, against [Complainant]” in the pending lawsuit in California. There is also nothing in the record that suggests that Respondent has used the disputed domain name or website solely to demand a payment from Complainant (such as conditioning removal of the website in return for a payment).

In all, while the Panel is mindful that it is possible that Respondent may have created his website to leverage his claims against Complainant, it is equally possible that Respondent did so because he finds

Complainant's services distasteful in light of what he claims in his lawsuit allegedly happened to him from security guards employed by Complainant. Indeed, Respondent's website aggregates numerous articles and postings by third parties claiming incidents involving Complainant and its security guards. And while Respondent claims that Respondent is compiling "defamatory statements about Complainant," such seems to be questionable given that many emanate from legitimate news sources.

Taking all of the above into account, the Panel concludes that Respondent has a legitimate interest in using the disputed domain name, which includes a term that carries an obvious negative connotation and does not impersonate Complainant, for a noncommercial website that aggregates reports and information by third parties that are critical of Complainant and to express Respondent's genuinely held views about Complainant. As such, Complainant's Complaint fails on the second element. In reaching this conclusion, the Panel wants to make clear that it expresses no view at all as to whether Respondent's views or postings as set out on Respondent's website are correct or are unfounded.

C. Registered and Used in Bad Faith

In the light of the Panel's finding as to the second element, the Panel does not need to address the third element of registration and use in bad faith in respect of the disputed domain name.

8. Decision

For the foregoing reasons, the Complaint is denied.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: August 25, 2025