

ADMINISTRATIVE PANEL DECISION

Allianz Saúde S.A. and Allianz SE v. Divina Graciele Silva da Costa
Case No. D2023-2614

1. The Parties

The Complainants are Allianz Saúde S.A., Brazil (the “First Complainant”) and Allianz SE, Germany (the “Second Complainant”), represented by JM Silveira & Associados Propriedade Intelectual Ltda., Brazil.

The Respondent is Divina Graciele Silva da Costa, Brazil.

2. The Domain Name and Registrar

The disputed domain name <allianzsaude.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 16, 2023. On June 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 29, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on July 7, 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 July 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on August 25, 2023.¹ 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 Second Complainant, Allianz SE, is the holding company of the Allianz Group, comprising various subsidiaries including the First Complainant, Allianz Saúde S.A. Therefore, both Complainants are part of an international financial group, offering products and solutions in insurance and asset management under the trademark ALLIANZ, including in Brazil, where the First Complainant Allianz Saúde S.A. is located.

The Second Complainant, Allianz SE, owns several trademark registrations for the trademark ALLIANZ worldwide, including in Brazil (for example, the trademark registration No. 819803782, registered on April 30, 2002).

The term “Allianz” is also the central part of the Complainants’ corporate names, as well as of many domain names owned by the Complainants (such as <allianz.com>).

The disputed domain name was registered on March 16, 2011.

The disputed domain name does not currently resolve to any active website². The Complainants brought evidence that the disputed domain name was recently linked to a website reproducing the Complainants’ trademark and logo without any authorization, promoting online medical consultations, and apparently offering competing insurance services.

5. Parties’ Contentions

A. Complainants

The Complainants make the following contentions:

- The disputed domain name is identical or confusingly similar to a trademark in which the Complainants have rights. The Second Complainant owns a large international portfolio of trademark registrations for the term “Allianz”, including in Brazil. The term “Allianz” in the disputed domain name is identical with the Complainants’ trademarks and also with the word in the Complainants’ company names, besides the fact that the disputed domain name corresponds exactly to the First Complainant’s corporate name – Allianz Saúde (S.A.).
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no license or other agreement with any of the Complainants authorizing her to use the trademark or trade name ALLIANZ. As the correct name and identity of the actual owner of the disputed domain name was concealed, the Complainants were not able to identify any information implying that the Respondent is commonly known by the disputed domain name or may have any rights or legitimate interests whatsoever on or into the disputed domain name. The disputed domain name leads to an active website by which the Respondent promotes her business and to offer health insurance plans under the Complainants’ name and trademark, including reproducing their logo. By redirecting Internet users to a website unrelated

¹ The previously appointed panel had to recuse itself from the proceeding.

² Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8, “[n]oting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name [...]”.

to the Complainants for her own commercial benefit, the Respondent is not making a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use.

- The disputed domain name was registered and is being used in bad faith. The Respondent is using the disputed domain name to resolve to a website that offers products and services which are the same that are offered by the Complainants (health insurance products and services) and, in addition to the disputed domain name's reproduction of the Complainants trade names and trademarks, on the website itself the Respondent also reproduces the Complainants' corporate name and registered logo. Upon arriving at the website, Internet users are likely to become confused as to the Complainants' involvement or sponsorship of the disputed domain name and corresponding website. The disputed domain name contains the famous and well-known ALLIANZ trademark and reproduces, entirely, the First Complainant's corporate name, and the Respondent is clearly seeking to profit by diverting Internet users in search of the Complainants' website, to her own commercial website, or else to sell the disputed domain name, what qualifies as an evidence of bad faith registration and use. All evidences lead to the conclusion that the Respondent has registered and is using the disputed domain name that is the subject of this Complaint in bad faith, for the purpose of selling it to the Complainants, to a competitor of the Complainants or to any interested third party for a monetary consideration in excess of her out-of-pocket expenses and, while waiting for an offer, the disputed domain name is being used for the purpose of diverting Internet users in search of the Complainants' website, for the Respondent's own commercial gain.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (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 Panel has no doubt that ALLIANZ is a term directly connected with the Complainants' trademarks and insurance services.

Annex VI to the Complaint shows trademark registrations for ALLIANZ in Brazil that date as early as in 1978.

The trademark ALLIANZ is wholly encompassed within the disputed domain name. The disputed domain name differs from the Complainants' trademark ALLIANZ merely by the addition of the suffix "saude" and of the generic Top-Level Domain ("gTLD") extension ".com".

Previous UDRP decisions have found that the mere addition of other terms (such as "saude", a Portuguese word that means "health") to a trademark in a domain name does not avoid a finding of confusing similarity. This has been held in many UDRP cases (see, e.g., *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#); *Wal-Mart Stores, Inc. v. Lars Stork*, WIPO Case No. [D2000-0628](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#); *AltaVista Company v. S.M.A., Inc.*, WIPO Case No. [D2000-0927](#)).

It is also already well established that the addition of a gTLD extension such as “.com” is typically irrelevant when determining whether a domain name is confusingly similar to a complainant’s trademark. As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainants’ trademarks, and that the Complainants have satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate rights or legitimate interests in a domain name:

- (i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the disputed domain name; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Based on the Respondent’s default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainants have not licensed or authorized the use of their trademarks to the Respondent, and it does not appear from the present record that the Respondent is commonly known by the disputed domain name.

The Panel notes that the present record provides no evidence to demonstrate the Respondent’s intent to use or to make preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. Indeed, the Complainants have shown that the confusingly similar disputed domain name has been linked to a website, reproducing the Complainants’ trademark and logo, promoting online medical consultations, and apparently offering competing insurance services.

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainants have proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed 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 documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent registered the disputed 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 the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

When the disputed domain name was registered by the Respondent (in 2011), the trademark ALLIANZ was already well known worldwide and directly connected to the Complainants' insurance services.

According to the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The Panel concludes that it would not be feasible to consider that the Respondent – at the time of the registration of the disputed domain name – could not have been aware of the Complainants' famous trademark, as well as that the adoption of the terms "Allianz Saude" in the disputed domain name and use of the Complainants' trademark and logo on the website at the disputed domain name could be a mere coincidence.

Actually, the Panel considers that in the present case the addition to the Complainants' trademark of the term "saude" may even enhance the risk of confusion, suggesting that it is the Complainants' official online website for health ("Saúde" in Portuguese) insurance.

Further, the disputed domain name was linked to a website, reproducing the Complainants' mark without any authorization, promoting online medical consultations, and apparently offering competing insurance services. Such use of the disputed domain name constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The disputed domain name now resolves to an inactive website.

UDRP panels have frequently found that the apparent lack of so-called active use of the disputed domain name (passive holding) does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); and *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#).

The non-collaborative posture of the Respondent, *i.e.*, (a) not presently using the disputed domain name, (b) not indicating any intention to use it, and (c) not at least submitting a Response to this procedure or providing justifications for the use of a famous third party trademark, certainly cannot be used in benefit of the Respondent in this Panel's opinion. Such circumstances, together with the lack of any plausible interpretation for the adoption of the terms "Allianz Saude" by the Respondent in the disputed domain name, confirm the Panel's finding of the Respondent's bad faith in the present case.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith, and the Complainants have also satisfied 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 <allianzsaude.com> be transferred to the First Complainant, Allianz Saúde S.A.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: September 11, 2023