

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG, Aldi Stores Limited v. DILCIA ARDON, ALDI
Case No. D2024-0898

1. The Parties

The Complainants are Aldi GmbH & Co. KG, Germany, and Aldi Stores Limited, United Kingdom, represented by Freeths LLP, United Kingdom.

The Respondent is DILCIA ARDON, ALDI, Honduras.

2. The Domain Name and Registrar

The disputed domain name <aldirtravels.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 February 29, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 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 March 4, 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 March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. The Respondent did not submit any response. However, Respondent sent email communications to the Center on March 4, 5, and 21, 2024. The latter included a "response". See further in section 5B below. Accordingly, the Center notified the Commencement of Panel Appointment Process on April 3, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on April 5, 2024. 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 Complainants' group operates the ALDI grocery chain, with some 5,000 stores worldwide.

The Complainants are collectively referred to hereafter as "the Complainant", unless it is necessary to refer to them separately.

The Complainant owns a number of registered trade marks for ALDI including United Kingdom trade mark No. UK00002250300, registered on March 30, 2001, in classes 1, 3, 5, 6, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, 34, and 35.

The Complainant operates various websites, including at "www.aldi.co.uk".

The disputed domain name was registered on March 7, 2023.

So far as the Panel is aware, the disputed domain name has never been used for an active website.

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.

B. Respondent

In an email to the Center on March 5, 2024, the Respondent stated: "You are notified which domain is listed for sale".

In an email of March 21, 2024, the Respondent said: "I send my response and I'm waiting to the response on your part, regarding the conciliation agreement of Case No. D2024-898".

In a formal document attached to its email of March 21, 2024, the Respondent stated: that the Respondent did not intend to renew the disputed domain name; that the Respondent consented to the remedy requested by the Complainant, namely transfer of the disputed domain name; that the Respondent should not incur any cost or penalty in doing so as the Registrar was responsible "to accept the domain names and define them internationally"; and that "[i]t is not my responsibility that this name or commercial emblem resembles the name of the [Complainant]".

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights; and
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Consolidation - Preliminary Issue

The principles governing the question of whether a complaint may be brought by multiple complainants are set out in section 4.11 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)).

The Panel is satisfied that (a) the Complainants, which are part of a group of companies, have a specific common grievance against the Respondent and the Respondent has engaged in common conduct that has affected the Complainants in similar fashion and (b) it would be equitable and procedurally efficient to permit the consolidation.

B. Consent to Remedy - Preliminary Issue

The Respondent has indicated in the document attached to the Respondent’s email of March 21, 2024, that it consents to transfer of the disputed domain name to the Complainant.

Many panels will order transfer solely on the basis of a consent to transfer by the respondent on the record, but other panels may still find it appropriate to proceed to a substantive decision on the merits in certain circumstances including where, while consenting to the requested remedy, the respondent has expressly disclaimed any bad faith. [WIPO Overview 3.0](#), section 4.10.

Here, the Panel has decided to proceed to a substantive determination here because the Respondent’s consent is somewhat conditional and, also, the Respondent has sought to disclaim responsibility for selection of the disputed domain name, instead blaming the Registrar.

C. 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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark 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, “travels”) 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 the first element of the Policy has been established.

D. 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 recognised 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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.

As to paragraph 4(c)(i) of the Policy, the disputed domain name is currently inactive and therefore not being used for a bona fide offering of goods or services. Nor is there any evidence that it ever has been.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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

E. Registered and Used 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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel considers that the following circumstances are indicative of passive holding in bad faith:

1. the distinctiveness and fame of the Complainant's mark; and
2. the failure of the Respondent to provide any evidence of actual or contemplated good faith use.

In particular, while the Respondent appears to seek to shift the blame to the Registrar, the Respondent has nonetheless consented to transfer of the disputed domain name to the Complainant and has not sought to explain, let alone justify, the Respondent's selection of 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 <aldirtravels.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: April 18, 2024