

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG, Aldi Stores Limited v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-3481

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 Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <aldicarreers.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2022. On September 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 September 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 22, 2022.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on November 3, 2022. 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 are Aldi GmbH & Co. KG, and Aldi Stores Limited.

The first one is the registered owner of the trademarks which are claimed as a basis for the Complaint, and the second one is the exclusive licensee in the United Kingdom.

The Complainants and their connected companies are recognized as international leaders in grocery retailing. They have more than 5,000 stores across the world and are also active in Australia, Austria, Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, Spain, Switzerland, and the United States.

Aldi Stores Limited operates with a website at “www.aldi.co.uk”.

The Complainants own numerous registered trademarks for ALDI in countries worldwide, including:

- United Kingdom ALDI Trademark No. UK00002250300 filed on October 26, 2000, and registered on March 30, 2001, covering goods and services in classes 01, 03, 05, 06, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, 34, and 35.

- European Union ALDI Trade Mark No. 002071728 filed on December 27, 2000, and registered on April 15, 2005, covering goods and services in classes 03, 04, 09, 16, 24, 25, 29, 30, 31, 32, 33, and 34.

The disputed domain name was registered on November 19, 2021 and is currently used to host a website, which redirects to various pages featuring harmful content.

5. Parties' Contentions

A. Complainants

The Complainants argue that the disputed domain name incorporates the ALDI sign (which is identical to the Complainants' name and Trademarks).

The disputed domain name incorporates the ALDI mark in its entirety, adding the term “carreers”.

The Complainants claim that the Internet users may believe that the disputed domain name is the official website of the Complainants', relating to career opportunities with them.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainants and there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests. The Complainants have never licensed or otherwise permitted the Respondent to use its trademark or to register any domain name including its trademark.

The Complainants further argues that the disputed domain name was registered and is being used in bad faith, within the meaning of paragraph 4(b)(iv) of the Policy.

The Complainants requests that the disputed domain name be transferred to it.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainants must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the 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.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

A. Identical or Confusingly Similar

In the present case, the disputed domain name <aldicarreers.com> is confusingly similar to the Complainants' registered trademark ALDI.

The Complainants have shown their own trademark rights in the ALDI trademark.

It is clear that the disputed domain name incorporates in its entirety the ALDI trademark to which the term "carreers" has been added.

It is well established that the addition of terms to a trademark in a domain name does not avoid a finding of confusing similarity. See, e.g., *eBay Inc. v. ebayMoving / Izik Apo*, WIPO Case No. [D2006-1307](#).

Moreover, it is well established that the generic Top-Level Domains ("gTLD") ".com", being a necessary component of a domain name, may be disregarded for the purpose of comparison under this ground. See, *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel finds that the first element of the Policy has been met.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainants have to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent is not in any way affiliated with the Complainants, nor has the Complainants authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

In *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), the panel stated that: "in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent."

The Panel finds no evidence that the Respondent has used, or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts, and agrees with the Complainants' contention that the disputed domain name was registered and is being used in bad faith.

The Respondent, by using the disputed domain name, is intentionally misleading the consumers and confusing them trying to attract them to the website at the disputed domain name, making them believe that the website is associated or recommended by the Complainants.

The Panel finds that the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to the website at the disputed domain name, by creating a likelihood of confusion with the Complainants' ALDI trademark as to the source, sponsorship, affiliation, or endorsement of the website and of the products/services on the website (Policy, paragraph 4(b)(iv)).

The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainants in this proceeding.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainants have satisfied paragraph 4(a)(iii) 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 <aldicarreers.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: November 21, 2022