

ADMINISTRATIVE PANEL DECISION

Alessi S.P.A. v. Details Not Provided by Registrant
Case No. D2024-2892

1. The Parties

The Complainant is Alessi S.P.A., Italy, represented by Studio Legale Laurenza, Italy.

The Respondent is the holder of the registration of the disputed domain name (details not provided by Registrant), United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <alessistore.shop> is registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 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 (unidentified) and contact information in the Complaint. The Registrar informed the Center that in the process of registration of the disputed domain name its registrant did not provide its name, but provided the postal address, the phone number, and an email address. The Center sent an email communication to the Complainant on July 22, 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 July 23, 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 July 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 14, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on August 16, 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 Complainant is an Italian design company founded in 1921. It is the owner of the following trademark registrations for the sign “ALESSI” (the “ALESSI trademark”):

- the International trademark  with registration No. 409176, registered on June 27, 1974, for goods in International Classes 8 and 21;
- the United States trademark  with registration No. 1096515, registered on July 18, 1978, for goods in International Classes 8 and 21;
- the International trademark ALESSI (word) with registration No. 533660, registered on March 6, 1989, for goods in International Classes 3, 8, 11, 12, 14, 16, and 20; and
- the European Union trademark ALESSI (word) with registration No. 000601344, registered on May 5, 1999, for goods in International Classes 8, 9 and 21.

The Complainant is also the owner of the domain name <alessi.com>, which resolves to its official website.

There is no information about the identity of the Respondent.

The disputed domain name was registered on May 11, 2024. It is currently inactive and displays the message “A***! This store is under construction”. At the time of filing of the Complaint, the disputed domain name resolved to a web shop with the header “ALESSI® Official Store”, which identically copied elements of the design and content of the Complainant’s official website. This web shop offered what appeared as the Complainant’s original products with prices indicated in EUR with 80% discount over the prices of the genuine products on the Complainant’s website and stated “LAST CHANCE ON SALE ALL AT -80%| FREE SHIPPING OVER €60.”

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.

The Complainant states that the disputed domain name is confusingly similar to the ALESSI trademark, because it incorporates the trademark in its entirety in combination with the descriptive word “store”, which increases the risk of misleading consumers that they are buying original products from the Complainant’s website. The Complainant adds that the disputed domain name is also confusingly similar to its own domain name <alessi.com>, which it uses for its official website.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant has not permitted it to use the disputed domain name or the ALESSI trademark and there is no affiliation or business relationship between the Respondent and the Complainant. The Complainant maintains that the use of the disputed domain name creates a significant likelihood that Internet users will mistakenly believe that the website at the disputed domain name is sponsored, affiliated, or associated with the Complainant. According to the Complainant, the Respondent’s intention is to use the disputed domain name to attract Internet users to a fake shopping website, where the products ordered by customers place never arrive or customers receive low quality items very different from what was advertised. The Complainant notes that the Respondent advertises the Complainant’s products at such a low price (with 80% discount) that does not make sense, and expects that after accumulating

substantial revenue from orders, the Respondent would vanish without delivering any products.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the disputed domain name, which is confusingly similar to the Complainant's trademark and domain name, was registered by the Respondent for its own commercial benefit, with the aim to mislead unsuspecting Internet users that the disputed domain name was affiliated to the Complainant and would lead them to a website where they could shop the Complainant's original items. However, it leads them to a fake shopping website, which copies the layout, colors, product images and descriptions included in the Complainant's Internet website, thus increasing the likelihood of confusion that the Respondent's website is affiliated to the Complainant. The Complainant also points out that the contact email addresses indicated on the Respondent's website have been repeatedly associated with shopping scam schemes.

The Complainant adds that on June 24, 2024, it sent a cease-and-desist letter to the Respondent, but never received a reply.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Procedural issue – Name and contact details of the Respondent

The Registrar informed the Center that in the process of registration of the disputed domain name, its registrant did not provide its name. Putting aside the issue of how the registrant was allowed to register a domain name without identifying itself, the Panel still has to decide whom to regard as the proper Respondent in this situation. Taking into account the lack of information about its identity and the provision of paragraph 1 of the Rules, according to which "Respondent means the holder of a domain-name registration against which a complaint is initiated", the Panel decides that in order to ensure the effectiveness of this Decision towards the real registrant of the disputed domain name, the term "Respondent", whenever used in this Decision, shall mean the holder of the registration of the disputed domain name, whoever this may be.

The Respondent has however provided its email address to the Registrar, and all communications that have to be sent to the Respondent have been sent by the Center to this email address and to the other email addresses indicated on the website at the disputed domain name. Thus, the Center has discharged its notification responsibilities under paragraph 2(a) of the Rules.

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

The Panel finds the ALESSI trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ALESSI trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “store”) 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 ALESSI trademark 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.

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 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.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation of the Complainant or commercial fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The composition of the disputed domain name carries a risk of implied affiliation with the Complainant as it is confusingly similar to the ALESSI trademark and is a combination of this trademark with the dictionary word “store” at the second level, and with the “.shop” generic Top-Level domain (“gTLD”) at the first level. This makes it appear as an online shop offering for sale products of the Complainant. This appearance is confirmed by the content of the associated website, which at the time of filing of the Complaint displayed the header “ALESSI® Official Store”, contained identically copied elements of the design and content of the Complainant’s official website, and offered for sale what was presented as the original ALESSI products with prices indicated in EUR, with an 80% discount over the prices of the original products on the Complainant’s website. There was no disclaimer for the lack of relationship with the Complainant. The Respondent has not provided any explanation why its conduct should be regarded as a bona fide offering of goods or services. In the lack of any evidence pointing to a different conclusion, the Panel finds that the circumstances of this case support a finding that by registering and using the disputed domain name, the Respondent has sought to impersonate the Complainant for commercial gain. The fact that it offered an 80% price discount of goods that were presented as ALESSI products significantly raises the risk that the Respondent may have actually attempted to defraud its potential customers.. As submitted by the Complainant, it is more likely than not that the products offered by the Respondent at the disputed domain name were non-original or that the Respondent did not intend to deliver them at all, and this is supported by the fact that third party online publications¹ warn that the contact email addresses indicated on the Respondent’s website have been repeatedly associated with shopping scam schemes.

¹ See “<https://malwaretips.com/blogs/arialsnservice-com/> and <https://malwaretips.com/blogs/services-vipseffhug-com/>”

In view of the above, there is also no basis to apply the Oki Data test (section 2.8.1 of the [WIPO Overview 3.0](#)), since the Respondent's website did not accurately and prominently disclose its relationship (or lack thereof) with the Complainant, who is the trademark holder, and since it is doubtful whether the Respondent was actually offering the original goods manufactured by the Complainant's and whether it intended to deliver them at all.

All the above supports a finding that the Respondent's conduct does not give rise to rights or legitimate interests of the Respondent in the disputed domain name. The Panel therefore finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Here, the disputed domain name appears as an online store selling the Complainant's products, and this is confirmed by the content of the associated website, which claimed to be an official store for ALESSI-branded products and copied its design and content from the Complainant's official website, without including a disclaimer for the lack of relationship with the Complainant. In the lack of any contrary allegation or evidence, the above supports a finding that by registering and using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's ALESSI trademark as to the source or affiliation of its website and of the products offered on it.

Moreover, Panels have held that the use of a domain name for illegal activity (here, claimed impersonation and commercial fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In addition to what was discussed above in this section, the fact that the Respondent's website offered what was presented as genuine products of the Complainant with an 80% price discount over the current prices of the original products on the Complainant's website, raises significantly the risk that the Respondent attempted to commit fraud by either selling non-original goods or not delivering them at all. The Respondent has not provided any explanation why it was offering such a discount, and in the absence of any plausible reason to do so, the Panel sees no logic behind it other than an attempt to attract and defraud unsuspecting customers for financial gain. The fact that the disputed domain name is currently inactive does not change the above conclusions, as it was inactivated following the submission of the Complaint.

Therefore, the Panel finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy, and 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 <alessistore.shop> be transferred to the Complainant.²

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: August 26, 2024

² In this regard, while the Respondent did not provide a registrant or organization name when registering the disputed domain name, nevertheless the concerned Registrar is directed to transfer the disputed domain name to the Complainant irrespective of the named Respondent in this proceeding.