

ADMINISTRATIVE PANEL DECISION

Lidl Stiftung & Co. KG v. gervais bruno
Case No. D2022-1076

1. The Parties

The Complainant is Lidl Stiftung & Co. KG, Germany, represented by HK2 Rechtsanwälte, Germany.

The Respondent is gervais bruno, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <admin-lidl.online> is registered with Ligne Web Services SARL (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2022. On March 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 2022 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 April 14, 2022.

The Registrar also indicated that the language of the Registration Agreement was French. The Center sent an email communication to the Complainant on April 11, 2022, inviting the Complainant to provide sufficient evidence of an agreement between the Parties for English to be the language of proceeding, a Complaint translated into French, or a request for English to be the language of proceedings. The Center also invited the Respondent to submit comments. On April 14, 2022, the Complainant confirmed its request for the language of proceedings to be English. The Respondent did not submit any comments.

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 in both French and English, and the proceedings commenced on April 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2022.

The Center appointed Elise Dufour as the sole panelist in this matter on June 2, 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 Complainant is a company with its registered seat in Germany, which belongs to the Lidl-Group, an internationally active supermarket chain.

The Complainant owns several national, European and international trademark registrations containing the word LIDL, such as the following:

- European Union word trademark LIDL no. 001778679, registered on August 22, 2002;
- European Union figurative trademark logo LIDL no. 001779784, registered on November 12, 2001.

The Complainant also owns several domain names containing the word "lidl", among which:

- <lidl.com> was registered on February 20, 2000;
- <lidl.net> was registered on April 17, 2009;
- <lidl.fr> was registered on July 20, 1998.

The disputed domain name <admin-lidl.online> was registered on February 21, 2022. At the time the Complaint was filed, it resolved to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is (i) confusingly similar to its earlier trademarks, (ii) the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith.

(i) The Complainant claims that the disputed domain name is confusingly similar to its trademarks, since the disputed domain name reproduces its LIDL trademarks in its entirety together with the term "admin", an abbreviation of the word "administration", which reinforces the risk of confusion.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name cannot be fairly used as it is obviously confusing and diverting. In addition, there is no *bona fide* offering of goods or services, as the disputed domain name resolves to the registrar landing page. Finally, the Respondent is not commonly known by "Lidl" or "admin-lidl".

(iii) Due to the strong reputation and well-known character of the Complainant and its trademarks, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademarks at the time the disputed domain name was registered. The Complainant also claims that the

Respondent's use of the disputed domain name is made in bad faith, as it is likely to be used for fraudulent purposes.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (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 was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Language of the proceeding

The language of the proceeding shall be the language of the registration agreement in accordance with paragraph 11(a) of the Rules. In this case, the Registrar confirmed that the language of the registrar agreement is French. The Complainant has requested English to be the language of the proceeding mainly because the Respondent is located in the United Kingdom and has registered a domain name including English terms, and the Complainant is a company based in Germany with no familiarity of foreign languages.

Given the fact that the Respondent has not objected to proceed in English, and that it was giving an opportunity to submit a response in French, the Panel finds that both parties were treated with equality, and that each party was given a fair opportunity to present its case, and accordingly the Panel decides to proceed in English. See Section 4.5 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))

B. Identical or Confusingly Similar

The Complainant submitted evidence, which incontestably and conclusively establishes rights in LIDL trademarks.

The disputed domain name wholly incorporates the Complainant's trademark LIDL, which, as it has been long established by previous UDRP panels, may be sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks.

It is well-established that the incorporation of a generic Top-Level Domain ("gTLD"), such as ".online", does not avoid a finding of confusing similarity to the Complainant's trademarks. The same applies to the addition of a term, such as "admin", which does not avoid a finding of confusing similarity, see Sections 1.11 and 1.8 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

There is no evidence that the Complainant has licensed or authorized the Respondent to use LIDL's trademark, nor that the disputed domain name has been used for a *bona fide* offering of goods or services or for noncommercial fair use. The Panel hence decides that the burden then passes to the Respondent, the Complainant having made out a *prima facie* case.

The Respondent has failed to satisfy this burden, including by failing to file a Response to the Complaint.

The Respondent has not demonstrated use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services without intent for commercial gain or to misleadingly divert consumers or to tarnish the LIDL trademarks of the Complainant nor that the Respondent has been commonly-known by the disputed domain name.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and that the second element of the Policy has been satisfied.

C. Registered and Used in Bad Faith

The Complainant and its LIDL trademarks are very well known, with trademark registrations across a number of countries.

To this is added the fact that "lidl" is not a common word, and the Respondent has added the term "admin" which is likely to enhance confusion, as it suggests that the disputed domain name will host a webpage relating to the administrative element of the Complainant's business.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the LIDL trademarks at the time the Respondent registered the disputed domain name.

In addition, the Panel notes that when the Respondent registered the disputed domain name, it simultaneously registered the domain name <admin-lidl.fr> which demonstrates a pattern of conduct directed against the Complainant.

As per the use in bad faith, the Panel notes that the disputed domain name resolves to a registrar parking page. This passive holding of the domain name does not prevent a finding of badfaith use. See section 3.3 of the [WIPO Overview 3.0](#).

Finally, the Panel considers the Respondent failure to file a response as further evidence of bad faith.

The Panel finds that the Complainant successfully fulfilled the requirements of paragraph 4(a)(iii).

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 <admin-lidl.online> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: June 16, 2022