

ADMINISTRATIVE PANEL DECISION

AV Holding S.r.l. v. aydin riahi aydin riahi
Case No. D2024-4782

1. The Parties

The Complainant is AV Holding S.r.l., Italy, represented by Studio Brevetti Turini s.r.l., Italy.

The Respondent is aydin riahi aydin riahi, Tajikistan.

2. The Domain Names and Registrar

The disputed domain names <allanticovinaio.app>, <allanticovinaio.info>, <allanticovinaio.net>, <allanticovinaio.online> and <allanticovinaio.org> are registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 12, 2024, 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. The Respondent sent an email communication to the Center on December 16, 2024, and on the same day the Center sent an email to the Parties regarding the possible settlement. On December 20, 2024, the Complainant informed the Center that it does not wish to suspend the proceeding. The Respondent did not submit any formal response by the due date. Accordingly, the Center informed the Parties of the commencement of the panel appointment process on January 6, 2025. On January 7, 2025, the Center received an email from the Respondent.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on January 10, 2025. 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 internationally active company based in Italy. It operates sandwich shops under the name “All’Antico Vinaio” in Italy, in the United States of America, and in other locations.

The Complainant owns inter alia the following registrations:

- European Union trademark registration No. 017988568 for ALL’ANTICO VINAIO registered on September 24, 2019, in classes 29, 30, 32, 33, 35, and 43;
- European Union trademark registration No. 018719548 for ALL’ANTICO VINAIO registered on November 11, 2022, in classes 9, 18, 21, 24, 25, and 35;
- Italian trademark registration No. 302021000209513 for ALL’ANTICO VINAIO registered on October 19, 2022, in classes 9, 18, 21, 24, 25, and 35.

The Complainant provides its services at the website “www.allanticovinaio.com”. The disputed domain names were registered on December 28, 2022.

The disputed domain names redirected to blank pages mentioning that “the site can’t be reached”.

The Complainant sent a cease and desist letter by email to the Respondent on February 23, 2024, but did not receive any reply.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its ALL’ANTICO VINAIO registered trademark as they capture the entirety of the verbal element of its trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain names. According to the Complainant, the Respondent has not been authorized by the Complainant to use its trademark within the disputed domain names and is not commonly known by the disputed domain names. The Respondent did not use or objectively prepare to use the disputed domain names in connection with a bona fide offering of goods or services, or any other right or interest to the disputed domain names.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain names in bad faith. According to the Complainant, the Respondent was aware of the existence of the Complainant and of its trademark, which is well-known when it registered the disputed domain names. The Respondent has therefore most likely registered the disputed domain names in order to block the Complainant from registering this trademark as a domain name later. Finally, the Respondent has not replied to the cease and desist letter that has been sent to him by the Complainant, which further suggest that he was aware that the registrations were made and being used in bad faith.

B. Respondent

The Respondent sent an email to the Center on December 16, 2024, claiming that he does not understand the Complaint as the disputed domain names were free when he registered them. In this email, the Respondent also suggests that he would be ready to solve the problem, if any. He did not submit a formal Response to the Complaint.

The Respondent sent another email to the Center on January 7, 2025, stating that he did not approve and renew the disputed domain names, and the Complainant can “grab the domains for yourself as soon as they are released”.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

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 names. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark (save for the apostrophe) is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is generally accepted that the applicable Top Level Domains (“TLD”) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. In the present case, the TLDs “.app”, “.info”, “.net”, “.online” and “.org” may be disregarded.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Indeed, based on the information submitted by the Complainant, the Complainant has not granted the Respondent authorization to use its trademark within the disputed domain names. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain names. The Respondent has not demonstrated any use or preparations to use the disputed domain names in connection with a bona fide offering of goods or services, or any other rights or interests to the disputed domain names.

Furthermore, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. In the present case, the disputed domain names carry a risk of implied affiliation with the Complainant, since the disputed domain names are almost identical to the Complainant's trademark (save for the apostrophe), and are identical to the Complainant's domain name <allanticovinaio.com>.

Finally, the Respondent did not reply to the cease and desist letter sent by the Complainant on February 23, 2024, nor did he file a formal Response to the Complaint. The Panel may draw from the lack of a formal Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

The Panel finds 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.

In the present case, the Panel notes that given the wide use of the Complainant's trademark and the fact that the Complainant provides its services via the website "www.allanticovinaio.com", it is unlikely that the Respondent registered the disputed domain names without prior knowledge of the Complainant's trademark and of its activities. Consequently, the Panel considers that the Respondent could not ignore the existence of the Complainant and of its trademark at the time of the registration of the disputed domain names, such that the disputed domain names were registered in bad faith.

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. Although panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy. Furthermore, the Respondent failed to submit a formal response or provide any evidence of actual or contemplated good faith use. Also, the Respondent did not appear to have provided accurate contact details because he did not indicate any street address in the Whois details. In any case, it is difficult to imagine what a legitimate use the Respondent could make of the disputed domain names, given the fact that there is no relationship

between the Respondent and the Complainant and the disputed domain names are inherently misleading. If the disputed domain names were connected to an active website, Internet users would be likely to mistakenly assume that such websites are operated or endorsed by the Complainant, when such is not the case.

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 names <allanticovinaio.app>, <allanticovinaio.info>, <allanticovinaio.net>, <allanticovinaio.online> and <allanticovinaio.org> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: January 26, 2025