

## **ADMINISTRATIVE PANEL DECISION**

LIDL Stiftung & Co. KG v. Lards RENAUD

Case No. DEU2022-0030

### **1. The Parties**

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

The Respondent is Lards RENAUD, France.

### **2. The Domain Name, Registry and Registrar**

The Registry of the disputed domain name <admin-lidl.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is NETIM.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2022. On September 6, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On September 7, 2022, the Registry 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 .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 14, 2022. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was October 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 27, 2022.

The Center appointed Marilena Comanescu 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 ADR Rules, Paragraph B(5).

#### 4. Factual Background

The Complainant belongs to the LIDL-Group, a global supermarket chain based in Germany. Currently LIDL-Group operates in more than 10,000 stores, employs more than 300,000 people and its stores can be found in 31 countries in Europe and United States of America.

The Complainant owns trademark rights for LIDL, such as the following:

- the German Trademark registration number 2006134 for LIDL (word), filed on July 3, 1991 and registered on November 11, 1991, covering goods in Nice Classes 3, 5, 8, 11, 16, 18, 21, 28, 30, 31, 32, 33; and
- the European Union Trademark registration number 001778679 for LIDL (word), filed on July 27, 2000, and registered on August 22, 2002, covering goods and services in Nice Classes 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14, 16, 18, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39, 41 and 42.

The Complainant owns domain names comprising the mark LIDL, such as <lidl.com>, <lidl.de>, <lidl.co.uk>, <lidl.es>, or <lidl-service.com>.

The disputed domain name was registered on January 5, 2022, and, at the time of filing the Complaint, it resolves to an inactive website.

According to Annex 6 to the Complaint, the disputed domain name was used in connection with a “phishing scheme” namely for sending emails purporting to be in the name of the Complainant’s “Director of the Purchasing and Sales Department”, to a supplier of the Complainant, and claiming to be interested in a commercial relationship with the recipient of this email.

The parties were involved in a previous dispute for the domain names <b2b-lidl.online>, <fr-lidl.online> and <fr-lidl.store>, decided in the favor of the Complainant. See *LIDL Stiftung & Co. KG v. Lards RENAUD*, WIPO Case No. [D2022-0709](#).

#### 5. Parties' Contentions

##### A. Complainant

The Complainant requests the transfer of the disputed domain name to it and contends the following: the disputed domain name is confusingly similar to its trademark LIDL; the Respondent has no rights or legitimate interests in the disputed domain name; and the Respondent has registered and is using the disputed domain name in a bad faith.

##### B. Respondent

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

#### 6. Discussion and Findings

Under Paragraph B(11)(d)(1) of the ADR Rules the Complainant is required to demonstrate the following:

(i) that the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law; and either

(ii) that the disputed domain name has been registered by the Respondent without rights or legitimate interests in the name; or

(iii) that the disputed domain name has been registered or is being used in bad faith

In the present ADR proceeding, the Complainant has pleaded the cumulative existence of the circumstances provided by the ADR Rules. The Panel notes that the ADR Rules list the issues under points (ii) and (iii) in the alternative, but nevertheless the Panel will examine both of these issues in order to reach its decision in the present ADR proceeding.

**A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

Paragraph (B)(1)(b)(9) of the ADR Rules contains a list of rights which may fulfill the definition of “name in respect of which a right is recognized or established” provided in Paragraph (B)(11)(d)(1)(i) of the ADR Rules. Said list includes, *inter alia*: “copyright, trademarks and geographical indications provided in national law or European Union law, and, insofar as they are protected under national law in the Member States where they are held: unregistered trademarks, trade names, business identifiers, company names, family names and distinctive titles of protected literary and artistic works”

Paragraph B(11)(d)(1)(i) of the ADR Rules requires that the disputed domain name be “identical or confusingly similar to a name in respect of which a right is recognized or established by national law of a member State and/or European Union law”.

The Panel finds that the Complainant has rights in the European Union trademark registration for LIDL.

The disputed domain name incorporates the Complainant’s trademark with an additional term, “admin”. However, such addition does not prevent a finding of confusing similarity as the Complainant’s trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels<sup>1</sup> have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name is not sufficient to escape a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

As stated in the vast majority prior cases, the “.eu” country code Top-Level Domain, being a mere technical requirement for registration, is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the disputed domain name is confusingly similar to the LIDL trademark as per the purpose of the Paragraph B(11)(d)(1)(i) of the ADR Rules.

**B. Rights or Legitimate Interests**

Under the ADR Rules, the burden of proof for the lack of rights or legitimate interests of the Respondent lies with the Complainant. However, the existence of negative facts is difficult to prove, and the relevant information for the Respondent is mostly in its sole possession. Therefore, the Panel holds that it is sufficient that the Complainant makes a *prima facie* demonstration that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production then shifts to the Respondent to submit appropriate evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element.

The Complainant contends that the LIDL trademark was registered before the registration of the disputed domain name, and its trademark is inherently distinctive, deriving from the name of its co-founder and has a strong international reputation. Furthermore, it asserts that the Respondent is not commonly known by the

---

<sup>1</sup> Considering the substantive similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (“UDRP”), the Panel also refers to UDRP cases, where appropriate.

disputed domain name and that the Respondent has not used the disputed domain name in connection with a noncommercial or fair use or a *bona fide* offering of goods or services.

Although properly notified with regard to the present procedure, the Respondent failed to provide a Response to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name.

Example of justification for registering or using the disputed domain name, are listed in Paragraph B(11)(e) of the ADR Rules as follows:

(i) prior to commencing this proceeding the Respondent has used the disputed domain name in connection with the offering of goods or services or that it has made demonstrable preparations to do so;

(ii) the Respondent as an undertaking, organization or natural person has been commonly known by the disputed domain name; or that

(iii) the Respondent is making a legitimate and noncommercial or fair use of the disputed domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

According to the records before it, the Panel finds that the disputed domain name has been used to fraudulently impersonate a former manager of the Complainant in order to contact a supplier of a Complainant. The Panel notes that there is no reasonable explanation for the selection of the disputed domain name for such use. In this regard, previous panels have categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation) can never confer rights or legitimate interests in a respondent. See section 2.13 of the of the [WIPO Overview 3.0](#).

Accordingly, in the absence of any evidence to support a possible basis on which the Respondent may have rights or legitimate interests in respect of the disputed domain name, and having in view the other circumstance of this case, the Panel accepts the Complainant's un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and that the Complainant has satisfied the condition set out at Paragraph B(11)(d)(1)(ii) of the ADR Rules.

### **C. Registered or Used in Bad Faith**

Under Paragraph B(11)(d)(1) of the ADR Rules, lack of rights or legitimate interests and registration or use in bad faith are considered alternative requirements for a successful complaint. As the Panel has found that the Respondent lacks rights or legitimate interests in the disputed domain name no further discussion on bad faith registration or use is necessary.

Nevertheless, the Panel finds that the Complainant holds trademark rights for LIDL since at least 1991 and has acquired reputation in its industry.

The disputed domain name was registered in 2022 and incorporates the Complainant's well-known mark together with the term "admin", which is easily connected with the Complainant's business. Furthermore, the Respondent registered other three similar domain names incorporating the trademark LIDL, in the same day with the disputed domain name. See *LIDL Stiftung & Co. KG v. Lards RENAUD* supra.

For the above, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting its LIDL trademark.

As noted above, the disputed domain name was used in connection with a "phishing scheme" namely for sending emails, impersonating an employee of the Complainant, in order to approach a supplier of the Complainant to develop a purported commercial relationship. Panels have held that such use of a domain name for purposes other than to host a website may constitute bad faith.

The findings that the Respondent targeted and impersonated the Complainant compel the Panel to conclude that the Respondent used the disputed domain name in bad faith to impersonate the Complainant, and take unfair advantage of the Complainant's trademark, attempting to mislead a third party. See also section 3.4 of the [WIPO Overview 3.0](#).

Further, as listed under section 4 above, the Respondent was involved in at least one previous UDRP case concerning another three domain names comprising the LIDL mark. See *LIDL Stiftung & Co. KG v. Lards RENAUD* supra.

Paragraph B(11)(f)(2)(i) of the ADR Rules lists the situation when the respondent has registered the disputed domain name in order to prevent the holder of a name in respect of which a right is recognised or established by national and/or European Union law, or a public body, from reflecting this name in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. Section 3.1.2 of the [WIPO Overview 3.0](#) explains that a pattern of conduct may include a scenario where the respondent has registered trademark-abusive domain names, further explaining that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration, even where directed at the same brand owner.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Respondent failed to participate in the present proceeding in order to provide arguments in its favor and apparently provided false contact details in the WhoIs because the Written Notice could not be delivered to the Respondent by courier service. Panels additionally view the failure to provide a response and the provision of false contact information as an indication of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the Respondent has both registered and used the disputed domain name in bad faith and that the condition set out at Paragraph B(11)(d)(1)(iii) of the ADR Rules has also been satisfied.

## 7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <admin-lidl.eu> be transferred to the Complainant<sup>2</sup>.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: November 25, 2022

---

<sup>2</sup> (i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) As the Complainant LIDL Stiftung & Co. KG, is established in Germany, a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of Regulation (EU) 2019/517.