

ADMINISTRATIVE PANEL DECISION

LIDL Stiftung & Co. KG v. Lawlor Derek

Case No. DEU2022-0036

1. The Parties

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

The Respondent is Lawlor Derek, France.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <lidl-snc.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is Combell NV.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 23, 2022. On November 24, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On November 25, 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 December 2, 2022. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was December 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 23, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on January 3, 2023. 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 is a global discount supermarket chain based in Germany. The Lidl group operates more than 10,000 stores with over 300,000 employees. Currently, the Complainant's stores can be found in 31 countries. The Complainant also offers a mobile phone network and travel services.

The Complainant owns various registrations for the word mark LIDL in various countries, among which the following:

Country	Reg. No.	Reg. Date	Classes
Germany	2006134	November 11, 1991	3, 5, 8, 11, 16, 18, 21, 28, 30, 31, 32 and 33
Germany	30009606	March 9, 2000	1, 2, 3, 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
Germany	30567731	February 9, 2006	35, 36, 39, 40, and 41
Germany	302014027081	August 14, 2014	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43 and 44
Germany	302019018984	September 18, 2019	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43 and 44
European Union	001778679	August 22, 2002	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
European Union	004746327	December 7, 2006	35, 36, 39, 40 and 41
European Union	006460562	October 15, 2008	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39, 40, 41 and 42
European Union	013192745	February 27, 2015	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43 and 44
European Union	018192764	December 8, 2020	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43 and 44

The Complainant also owns and uses the following domain names consisting of the LIDL trademark: <lidl.com>, <lidl.de>, <lidl.co.uk>, <lidl.fr> and <lidl.ie>.

The disputed domain name was registered on August 3, 2022 and leads to the Registrar's parking page.

5. Parties' Contentions

A. Complainant

The Complainant maintains that the disputed domain name is confusingly similar to its trademark as it

incorporates this trademark entirely and the addition of the abbreviation “snc”, which stands for “société en nom collectif” (the French name of a partnership), cannot prevent a finding of confusing similarity.

The Complainant further maintains that the disputed domain name has been registered by the Respondent without rights or legitimate interests.

The disputed domain name resolves to a parking page and such use cannot amount to a noncommercial or fair use in view of the fact that the disputed domain name is confusingly similar to the Complainant's trademark and likely to divert potential consumers. Furthermore, the Respondent is not commonly known by the disputed domain name, and does not own any registration for a LIDL trademark. The Complainant never authorized the Respondent to make use of its mark. Lastly, there is no indication of the Respondent's use of the disputed domain name or a name corresponding to the disputed domain name in connection with offering of goods and services, or of demonstrable preparations to do so.

In relation to bad faith, the Complainant contends that the LIDL trademark is distinctive and enjoys strong reputation in view of its widespread and longstanding use in connection with a very famous discount supermarket chain. Therefore, the Respondent could not ignore the Complainant and its well-known trademark and no conceivable legitimate use of the disputed domain name is possible in this case.

Moreover, the Respondent's email address is highly suspicious as it coincides with the name of a former supermarket marketing manager at the Complainant's group. Such name is often misused for fraudulent activities. The Complainant has become aware of several fraud schemes in which someone using the name corresponding to the Respondent's email address and presenting himself as a LIDL marketing manager, orders goods from food suppliers. The suppliers believe that they are in contact with one of LIDL's managers and send their goods, which are never paid. The Complainant opines that the Respondent and the sender of these emails are the same person. To avoid considerable and reputational damage, the Complainant has initiated takedown activities at the Registrar and hosting provider of the disputed domain name. In this context, the Registrar informed the Complainant that the website associated with the disputed domain name was deactivated also because of a “suspicious payment method”. This is a further hint to a possible fraudulent scheme behind the registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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

The Panel is satisfied that the Complainant has provided sufficient evidence of ownership of the LIDL trademark registered in the European Union and in Germany for various classes of goods and services. The Panel finds that the disputed domain name is confusingly similar to the Complainant's LIDL trademark since it is fully reproduced in the disputed domain name and is followed by an hyphen and the abbreviation, “snc”, which stands for “société en nom collectif” (French for “partnership”).

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 Paragraph B(11)(e) of the ADR Rules, a respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph B(11)(d)(1)(ii) by showing any of the following circumstances, in particular but without limitation: (1) prior to any notice of the dispute, the respondent has used the domain

name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so; (2) the respondent, being an undertaking, organization or natural person, has been commonly known by the domain name, even in the absence of a right recognized or established by national and/or European Union law; (3) the respondent is making a legitimate and noncommercial or fair use of the 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.

The Complainant did not authorize the Respondent to include its LIDL trademark in the disputed domain name. The disputed domain name resolves to a parking page of the Registrar, therefore, the Respondent has not used the disputed domain name in connection with the offering of goods or services, nor has provided any evidence demonstrating preparations to do so. In addition, the Panel has found no evidence in the file showing that the Respondent has been commonly known by the disputed domain name, even in the absence of a right recognized or established by national and/or European Union law. The Respondent does not appear to be 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. The disputed domain name incorporates the well-known trademark LIDL followed by the abbreviation “snc”, which stands for “société en nom collectif” (French for “partnership”). This abbreviation is descriptive of a French partnership and Internet users looking for the Complainant could easily associate the disputed domain name with one of the official domain names belonging to the Complainant. The Respondent has not objected to the Complainant’s arguments in support of a finding of lack of rights or legitimate interests in the disputed domain name. Furthermore, the nature of the disputed domain name, comprising the Complainant’s trademark in its entirety, carries a risk of implied affiliation (See section 2.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”¹)).

For all reasons mentioned above, the Panel concludes that the disputed domain name has been registered by the Respondent without rights or legitimate interests and that the Complainant has successfully established the circumstance set forth in Paragraph B(11)(e) of the ADR Rules.

C. Registered or Used in Bad Faith

There is no need to separately address bad faith registration or use, in view of the Panel’s finding that the Respondent lacks rights or legitimate interests in the disputed domain name. However, for the sake of completeness, the Panel will also briefly examine the registration or use of the disputed domain name in bad faith.

The Panel agrees with the Complainant that the Respondent knew or should have known the Complainant and the LIDL trademark at the time of the registration of the disputed domain name. There is no doubt that the trademark LIDL enjoys strong reputation, due to its widespread and longstanding use. The Respondent’s location is in France and the Complainant operates in the whole European Union, including in France. Moreover, the Respondent provided as contact email address an email containing the name and surname of a former supermarket manager of the Complainant. All these circumstances lead to the conclusion that the Respondent was perfectly aware of the Complainant and of its LIDL trademark when it registered the disputed domain name. In the absence of any rights or legitimate interest in the disputed domain name, the Panel concludes the Respondent registered the disputed domain name in bad faith.

The Panel also opines that the disputed domain name has been used in bad faith. At the time of the filing of the Complaint, the disputed domain name led to the Registrar’s parking page. Such use cannot undermine a finding of bad faith, not only because no legitimate use of the disputed domain name is conceivable in light of the strong reputation that the LIDL mark enjoys, but also for the following undisputed reasons set forth by the Complainant. The email address associated with the Respondent refers to a former supermarket manager at the Complainant’s group, whose name is often used in connection with fraudulent activities. Moreover,

¹ Considering the substantive similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Panel also refers to UDRP case law and analysis, where appropriate.

the Registrar of the disputed domain name has informed the Complainant that the website associated to the disputed domain name was deactivated due to suspicious payment methods.

In light of this, the Panel concludes that the disputed domain name was not only registered, but also used in bad faith.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <lidl-snc.eu> be transferred to the Complainant².

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: January 17, 2023

² (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.