

ADMINISTRATIVE PANEL DECISION

Allianz SE v. Privacy Service Provided by Withheld for Privacy ehf /
Emmanuel Oleh
Case No. D2022-0941

1. The Parties

The Complainant is Allianz SE, Germany, represented internally.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Emmanuel Oleh, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <allianzinvest.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 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 March 18, 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 March 18, 2022.

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 April 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2022. On April 27, 2022, the Respondent forwarded to the Center an informal communication offering to delete the disputed domain name. On the same day, the Center informed the Parties that if they wished to explore settlement options, the Complainant

should submit a request to suspend the proceedings by May 2, 2022. The Complainant did not offer any response, and consequently the case proceeded.

The Center appointed William R. Towns as the sole panelist in this matter on May 5, 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 German multinational financial services company founded in Berlin in 1890, and headquartered in Munich, Germany. The Complainant concentrates on insurance and asset management, trading under the “Allianz” brand, and serving over 100 million private and corporate customers in 70 countries.¹ The Complainant holds numerous trademark registrations for its well-known ALLIANZ mark in various jurisdictions, including the following:

- German Trademark Registration No. 987481, registered July 11, 1979;
- International Trademark Registration No. 447004, applied for and registered September 12, 1979;
- International Trademark Registration No. 713841, applied for and registered May 3, 1999;
- International Trademark Registration No. 714618, applied for and registered May 4, 1999;
- German Trademark Registration No. 39927827, registered July 16, 1999;
- European Union Trademark Registration (“EUTM”). No. 000013656, applied for April 1, 1996, and registered July 22, 2002.

The Complainant and its related companies have registered numerous domain names reflecting the Complainant’s ALLIANZ mark, including among others <allianz.de>, <allianz.com>, <allianz.us>, <allianz.fr>, <allianzgi.com>, and <allianzjobs.com>.²

The disputed domain name <allianzinvest.org> was registered on March 9, 2022. The disputed domain name does not presently resolve to an active website, but the Respondent previously has used the disputed domain name with a website at “https://www.allianzinvest.org”, prominently displaying the Complainant’s distinctive ALLIANZ mark and logo and purportedly offering products, services and solutions in insurance and asset management.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that the disputed domain name <allianzinvest.org> is confusingly similar to the Complainant’s ALLIANZ, a well-known trademark in which the Complainant has established irrefutable rights. The Complainant contends that the disputed domain name deceptively leads to the conclusion that it would be part of the Complainant’s Allianz Group. The Complainant refers to a court decision holding that the ALLIANZ mark has an extraordinarily high level of recognition in the general public, and emphasizes several UDRP decisions respecting the ALLIANZ mark that have been decided in favor of the Complainant.

¹ Refer to the Complainant’s Allianz website at “https://www.allianz.com/en/about-us/who-we-are/at-a-glance.html#profile”.

² See also *Allianz SE v. WhoisGuard Protected, WhoisGuard, Inc. / Charles Okocha*, WIPO Case No. [D2020-3327](#).

The Complainant maintains that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant emphasizes that the Respondent has not registered the ALLIANZ mark and has neither been licensed or otherwise permitted to use the Complainant's ALLIANZ mark. The Complainant contends that the Respondent has not been commonly known by the disputed domain name, and asserts that the Complainant's prior rights preclude the Respondent from being known by the disputed domain name. The Complainant observes that the Respondent prior to any notice of the dispute has neither used nor made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, and concludes that the Respondent is neither making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name was registered and has been used in bad faith by the Respondent. According to the Complainant, the Respondent has attempted by using the disputed domain name to create a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation or endorsement of the disputed domain name. The Complainant further emphasizes that its ALLIANZ mark is well known in numerous countries around the world relative to its insurance and financial products and services, and concludes that the Respondent reasonably could not have been unaware of the Complainant's ALLIANZ mark when registering the disputed domain name.

The Complainant observes that the Respondent's website at "www.allianzinvest.org" wholly incorporates the ALLIANZ mark in the disputed domain name, and submits that the Respondent registered the disputed domain name because of its association with the Complainant's distinctive ALLIANZ mark and top level domain, in order to trade on the Complainant's reputation. The Complainant further contends that the Respondent upon registering the disputed domain directed it to a malicious website, impersonating the Complainant in an attempt to obtain personal and confidential information from unsuspecting consumers in a fraudulent phishing scheme.

B. Respondent

Apart from the Respondent's email communication dated April 27, 2022 offering to delete the disputed domain name, the Respondent did not submit any formal response to the Complainant's contentions.

6. Discussion and Findings

A. Scope of the Policy

The Policy is addressed to resolving disputes concerning allegations of abusive domain name registration and use. *Milwaukee Electric Tool Corporation v. Bay Verte Machinery, Inc. d/b/a The Power Tool Store*, WIPO Case No. [D2002-0774](#). Accordingly, the jurisdiction of this Panel is limited to providing a remedy in cases of "the abusive registration of domain names", also known as "cybersquatting". *Weber-Stephen Products Co. v. Armitage Hardware*, WIPO Case No. [D2000-0187](#). See Final Report of the First WIPO Internet Domain Name Process, April 30, 1999, paragraphs 169-177. The term "cybersquatting" is most frequently used to describe the deliberate, bad faith abusive registration of a domain name in violation of rights in trademarks or service marks. *Id.* at paragraph 170. Paragraph 15(a) of the Rules provides that the panel shall decide a complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the panel deems applicable.

Paragraph 4(a) of the Policy requires that the complainant prove each of the following three elements to obtain a decision that a domain name should be either cancelled or transferred:

- (i) the 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 with respect to the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Cancellation or transfer of the domain name is the sole remedy provided to the complainant under the Policy, as set forth in paragraph 4(i).

Paragraph 4(b) of the Policy sets forth four situations under which the registration and use of a domain name is deemed to be in bad faith, but does not limit a finding of bad faith to only these situations.

Paragraph 4(c) of the Policy in turn identifies three means through which a respondent may establish rights or legitimate interests in a domain name. Although the complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily, if not exclusively, within the knowledge of the respondent. Thus, the view is that the burden of production shifts to the respondent to come forward with evidence of a right or legitimate interest in the domain name, once the complainant has made a *prima facie* showing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

B. Identical or Confusingly Similar

The Panel finds that the disputed domain name <allianzinvest.org> is confusingly similar to the Complainant's ALLIANZ mark, a distinctive and well-known mark in which the Complainant has established rights through registration and use. In considering identity and confusing similarity, the first element of the Policy serves essentially as a standing requirement.³ The threshold inquiry under the first element of the Policy involves a relatively straightforward comparison between the complainant's trademark and the disputed domain name.

In this instance, the Complainant's ALLIANZ mark is clearly recognizable in the disputed domain name. The presence of the word "invest" in the disputed domain name does not serve to dispel the confusing similarity of the disputed domain name to the Complainant's mark.⁴ See, e.g., *LLC v. Temp name Temp Last Name, Temp Organization*, WIPO Case No. [D2019-0109](#). See also *Instagram, LLC v. A S*, WIPO Case No. [D2020-1327](#) (<instagramcommerce.com>). When the relevant trademark is recognizable in the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not preclude a finding of confusing similarity under paragraph 4(a)(i) of the Policy.⁵ Top-Level Domains ("TLDs") generally are disregarded when evaluating the identity or confusing similarity of the Complainant's mark to the disputed domain name under paragraph 4(a)(i) of the Policy, irrespective of any ordinary meaning that might be ascribed to the TLD.⁶

Accordingly, the Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

As noted above, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, paragraph 4(c) shifts the burden of production to the respondent to come forward with evidence of rights or legitimate interests in a domain name. The Panel is persuaded from the record of this case that a *prima facie* showing under paragraph 4(a)(ii) of the Policy has been made. It is undisputed that the Respondent has not been authorized to use the Complainant's ALLIANZ mark. The Respondent notwithstanding registered the disputed domain name, which wholly incorporates the Complainant's ALLIANZ mark. And as previously noted, the Respondent previously pointed the disputed domain name to a website appropriating the Complainant's distinctive ALIANZ mark and logo and purportedly offering products, services and solutions in insurance and asset management. The Respondent now appears to be passively holding the

³ See [WIPO Overview 3.0](#), section 1.7.

⁴ See [WIPO Overview 3.0](#), section 1.8 and cases cited therein.

⁵ *Id.*

⁶ See [WIPO Overview 3.0](#), section 1.11.

disputed domain name.

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, as previously discussed, has not submitted a formal response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#). The Panel has carefully reviewed the record in this case, and finds nothing therein that would bring the Respondent's registration and use of the disputed domain name within any of the "safe harbors" of paragraph 4(c) of the Policy.

The Panel concludes from the record that the Respondent was aware of and had the Complainant's well-known ALLIANZ mark plainly in mind when registering the disputed domain name. As previously observed, the Respondent presently is passively holding the disputed domain name and has brought forward no credible evidence of use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. Nor did the previous use of the disputed domain name displaying the Complainant's ALIANZ mark and logo and purportedly offering similar services constitute any *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.2 and cases cited therein.

Nor has the Respondent brought forth any claim to be making a legitimate noncommercial or fair use of the disputed domain name. A respondent's use of a domain name cannot be considered "fair" if it falsely suggests affiliation with the trademark owner, and UDRP panels generally have found that a domain name appropriating a complainant's trademark plus an additional term carries a risk of implied affiliation if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. The use of a domain name cannot be "fair" if it suggests a non-existent affiliation with the trademark owner; nor can a use be "fair" if it is pretextual. See *201 Folsom Option JV, L.P. and 201 Folsom Acquisition, L.P. v. John Kirkpatrick*, WIPO Case No. [D2014-1359](#); *Project Management Institute v. CMN.com*, WIPO Case No. [D2013-2035](#).

In view of the foregoing, the Panel concludes that the Respondent has neither used nor demonstrated preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, and that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. Further, there is no indication that the Respondent has been commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

Accordingly, the Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the

owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For the reasons discussed under this and the preceding heading, the Panel concludes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(a)(iii) of the Policy. The Panel finds that the Respondent was aware of the Complainant and had the Complainant's distinctive and well-known ALLIANZ mark in mind when registering the disputed domain name. The Panel considers that the Respondent more likely than not registered the disputed domain name seeking to exploit or profit from the Complainant's trademark rights.

The Respondent previously has used the disputed domain name with a website prominently displaying the Complainant's distinctive ALLIANZ mark and logo and purportedly offering products, services and solutions in insurance and asset management, which constitutes bad faith under paragraph 4(b)(iv) of the Policy. What now appears to be the Respondent's passive holding of the disputed domain name does not preclude a finding of bad faith in the attendant circumstances of this case. As set forth in *Telstra Corporation Limited v. Nuclear Marshmallows, supra*, "the relevant issue is not whether the Respondent is taking a positive action in bad faith in relation to the domain name, but instead whether, in all the circumstances of the case, it can be said that the Respondent is acting in bad faith. [...] [I]t is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith". See also *Red Bull GmbH v. Kevin Franke*, WIPO Case No. [D2012-1531](#). The Panel finds such circumstances to be present in this case.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <allianzinvest.org> be transferred to the Complainant.

/William R. Towns/

William R. Towns

Sole Panelist

Date: May 19, 2022