

## **ADMINISTRATIVE PANEL DECISION**

**Aldi GmbH & Co. KG, Aldi Stores Limited v. Domain Administrator**  
**Case No. D2023-0119**

### **1. The Parties**

The Complainant is Aldi GmbH & Co. KG, Germany, and Aldi Stores Limited, United Kingdom, represented by Freeths LLP, United Kingdom.

The Respondent is Domain Administrator, Nigeria.

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

The disputed domain name <aldicareees.com> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023. On January 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2023, 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 (Privacy Protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2023, 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 January 19, 2023.

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 January 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 14, 2023.

The Center appointed Halvor Manshaus as the sole panelist in this matter on March 15, 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 Rules, paragraph 7.

#### 4. Factual Background

The Complainant operates in the supermarket sector and has more than 5,000 stores across the world. Further, the Complainant is active in Australia, Austria, Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, Spain, Switzerland, and the United States.

The Complainant owns and is the exclusive licensee in the United Kingdom of several trademark registrations in both the United Kingdom and the European Union for ALDI, including the following:

The United Kingdom registration no. UK00002250300, registered on March 30, 2001 for various goods and services in classes 1, 3, 5, 6, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, and 34.

The United Kingdom registration no. UK00902071728, registered on April 14, 2005 for various goods and services in classes 3, 4, 9, 16, 24, 25, 29, 30, 31, 32, 33, 34, and 36.

The European Union registration no. 002071728, registered on April 14, 2005 for various goods and services in classes 3, 4, 9, 16, 24, 25, 29, 30, 31, 32, 33, and 34.

The Complainant owns the domain name <aldi.co.uk>, where Internet users can find the Complainant's main website.

The disputed domain name was registered on June 30, 2022. At the date of this decision, the disputed domain name resolves to an inactive website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant's arguments can be summarized as follows:

The Complainant argues that the disputed domain name is identical or confusingly similar to its ALDI trademark as it incorporates the ALDI trademark together with the word "careees" which is likely to be read by Internet users as the word "careers". The Complainant submits that the disputed domain name suggests that the disputed domain name will host a webpage relating to the careers or employment at the Complainant, consequently enhancing the confusion.

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant's rights to the ALDI trademark predated the Respondent's registration of the disputed domain name. Further, the Complainant submits that the Complainant has not licensed or otherwise authorized the Respondent to use the ALDI name or trademark. The Complainant is unaware that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and services, been commonly known by the domain name or made any legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant reiterates that the disputed domain name is confusingly similar to the Complainant's trademark, causing confusion among Internet users. According to the Complainant, the registration of the disputed domain name therefore took unfair advantage of the Complainant's rights. Further, the Complainant submits that it is likely that the disputed domain name has been or is planned to be intentionally used to attract Internet users to a website hosted at the disputed domain name for commercial gain harming the Complainant's trademark's reputation and distinctive character. Lastly, the Complainant argues that there is a distinct possibility that the disputed domain name was registered, so the Respondent might offer the disputed domain name for sale to either the Complainant or its competitors at a higher price than the registration cost in hopes that the parties bid against each other.

## B. Respondent

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

## 6. Discussion and Findings

The Complainant has, in accordance with paragraph 4 (a) of the Policy, requested that the disputed domain name be transferred to the Complainant.

In accordance with paragraph 4 (a) of the Policy, in order to succeed in this proceeding and have the disputed domain name transferred, the Complainant must establish that the three following elements are satisfied for the disputed domain name:

- (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 has been registered and is being used in bad faith.

Pursuant to paragraph 15 (a) of the Rules, the Panel shall decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Furthermore, in accordance with paragraph 14 (b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

On the basis of the evidence submitted by the Complainant and, in particular, with regards to the content of the relevant provisions of the Policy (paragraph 4 (a), (b), and (c)), the Panel concludes as follows:

### A. Identical or Confusingly Similar

Under the first element of paragraph 4 (a) of the Policy, the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Based on the evidence submitted by the Complainant, describing the Complainant's trademark registrations and associated business, the Panel finds the Complainant holds numerous trademark registration of ALDI in several jurisdictions and that the ALDI mark is vested with significant goodwill.

The disputed domain name comprises the Complainant's trademark in its entirety together with the word "careees", and the generic Top-Level Domain ("gTLD") ".com". As held in *Accor v. Noldc Inc.*, WIPO Case No. [D2005-0016](#), the gTLD part of a domain name is not taken into consideration when examining the identity or similarity between a complainant's trademark and a disputed domain name.

The Panel finds that the addition of the word "careees" does not distinguish the disputed domain name from the Complainant's trademark. The word "careees" is a misspelling of the word "carers", suggesting that the disputed domain name will host a website relating to the careers or employment at the Complainant. As held in *Sodexo v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-0472](#), adding other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks does not prevent a finding of confusing similarity. Further, it has been held in numerous cases that a domain name that wholly incorporates a complainant's registered mark may be sufficient to establish confusing similarity.

Based on the above, the Panel concludes that the Complainant has satisfied the requirement under paragraph 4 (a) of the Policy.

## **B. Rights or Legitimate Interests**

For the Complainant to succeed under paragraph 4 (a) (ii) of the Policy, the Complainant must establish a *prima facie* case that the Respondent has no right or legitimate interest in the disputed domain name. If the Complainant establishes a *prima facie* case that the Respondent has no right or legitimate interest in the disputed domain name, the evidentiary burden of production shifts to the Respondent, see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#).

In the Panel's view, the presented evidence referred to by the Complainant is sufficient to establish *prima facie* case that the Respondent has no rights or legitimate interest in the disputed domain name. The Panel has not been presented with, or discovered, any evidence that i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name. At the time of this decision, the disputed domain name reverts to an inactive website, which does not constitute genuine use of a domain name or a *bona fide* offering of goods and services.

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy have been met.

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

In order to prevail under the third element of paragraph 4 (a) of the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

The Complainant has credibly shown that the ALDI mark is widely known within its sector and that significant goodwill is vested in it. Furthermore, the Complainant's registration of the ALDI trademark predicates the registration of the disputed domain name by at least 20 years. The Panel therefore finds it unlikely that the Respondent was unaware of the Complainant's rights to the ALDI trademark at the time of the registration of the disputed domain name. In any case, the Panel finds that the Respondent had or should have knowledge of the Complainant's registration of the trademark.

The disputed domain name does not resolve to an active website as of the date of this decision. However, as held in *LEGO Juris A/S v. Djuradj Caranovic*, WIPO Case No. [D2021-2641](#), the lack of so-called active use of the disputed domain name does not prevent a finding of bad faith. In such cases, panelists look at the totality of the circumstances in each case, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.3.

The Panel is convinced that the overall circumstances of this case strongly suggest that the Respondent's non-use of the disputed domain name is in bad faith. The Respondent has not filed any response in these proceedings. Further, the disputed domain name incorporates the Complainant's trademark and the misspelling of the descriptive term "careers", suggesting that the disputed domain name will host a website relating to the careers or employment at the Complainant, thereby taking unfair advantage of the Complainant's rights. Moreover, the distinctiveness and reputation of the ALDI are also circumstances from which the Panel draws the conclusion that the disputed domain name was registered and is being used in bad faith.

For the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith. Accordingly, the third element of paragraph 4 (a) of the Policy has been fulfilled.

## 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 <aldicareees.com> be transferred to the Complainant.

*/Halvor Manshaus/*

**Halvor Manshaus**

Sole Panelist

Date: March 29, 2023