

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG and Aldi Stores Limited v. Alamin Farabi
Case No. D2023-1463

1. The Parties

The Complainants are Aldi GmbH & Co. KG, Germany (the “First Complainant”), and Aldi Stores Limited, United Kingdom (the “Second Complainant”), represented by Freeths LLP, United Kingdom.

The Respondent is Alamin Farabi, Hungary.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2023. On April 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on April 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on April 11, 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 April 14, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 5, 2023.

The Center appointed Linda Chang as the sole panelist in this matter on May 19, 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 Complainants are part of the same corporate group, and they are well known in grocery retailing with over 5,000 stores across the world.

The First Complainant is the owner of a number of ALDI trademarks, *inter alia*:

- European Union trademark No. 002714459 ALDI, registered on September 5, 2003;
- European Union trademark No. 003360914 ALDI, registered on June 2, 2010;
- European Union trademark No. 003639408 ALDI, registered on April 19, 2005.

The Second Complainant is the First Complainant's exclusive licensee of the ALDI trademark in the United Kingdom.

The disputed domain name was registered on September 27, 2022 and currently does not resolve to an active website.

5. Parties' Contentions

A. Complainants

The Complainants claim that the disputed domain name includes "aldi" which is identical to the Complainants' ALDI trademark and accordingly is confusingly similar to the ALDI trademark.

The Complainants further claim that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainants have not licensed or authorized the Respondent to use the ALDI trademark.

The Complainants finally claim that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Procedural Issues - Consolidation of Complainants

The Complainants have filed one single Complaint together against the Respondent.

The Complainants have convinced the Panel that the First Complainant and Second Complainant are two entities within a group of related companies that share a common grievance and legal interests in the ALDI trademark, and their commercial rights are both targeted by the Respondent's conduct of registering and using the disputed domain name.

Accordingly, the Panel determines that it would be equitable and procedurally efficient to permit to allow the Complainants' request for consolidation in this administrative proceeding. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1.

6.2 Substantive Issues

The Complainants must produce adequate evidence for the three elements in paragraph 4(a) of the Policy to succeed in this case, namely that:

- (i) the disputed domain name is identical to or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainants have registered trademark rights in ALDI.

The suffix “.com” being the generic Top-Level Domain is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The remaining part of the disputed domain name is “aldicashgiveaway”, incorporating the Complainants’ ALDI trademark in its entirety and the words “cash” and “giveaway”. The Panel determines that the mere addition of words “cash” and “giveaway” cannot prevent a finding of confusing similarity between the disputed domain name and the ALDI trademark. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

In light of the above facts and reasons, the Panel finds that the Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainants have demonstrated rights in the ALDI trademark and confirmed that they have not licensed nor authorized the Respondent to use the ALDI trademark.

The Panel is satisfied that the Complainants have established *prima facie* evidence that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraph 4(c) of the Policy, and the burden of production thus shifts to the Respondent. See *International Hospitality Management – IHM S.p.A. v. Enrico Callegari Ecostudio*, WIPO Case No. [D2002-0683](#).

The Respondent however did not file a response to prove his rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. As the disputed domain name resolves to an inactive page, the Panel finds that the Respondent has not made any reasonable and demonstrable preparations to use the disputed domain name and fails to show any intention of noncommercial or fair use of the disputed domain name. Further, there is no evidence on record showing that the Respondent is commonly known by the disputed domain name. Accordingly, the Panel determines that there is no indication that the Respondent has any rights or legitimate interests in respect of the disputed domain name.

In light of the above facts and reasons, the Panel finds the Complainants have satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Given the fame of the ALDI mark, the Panel finds it unlikely that the Respondent registered the disputed domain name without actual notice of the Complainants and the ALDI trademark at the time of registration. The Panel concludes that the Respondent was aware of the ALDI mark at the time of registering the disputed domain name and such awareness amounts to opportunistic bad faith registration. See *Deutsche Bank AG v. Diego-Arturo Bruckner*, WIPO Case No. [D2000-0277](#).

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

The disputed domain name does not resolve to any active website. Considering the widely-known nature of the ALDI mark, the Panel does not consider that the disputed domain name may be put into any good faith use. The Panel determines that the Respondent engages in passive holding of the disputed domain name, which satisfies the situations clarified in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and constitutes bad faith. The Respondent's failure to respond to this Complaint further supports an inference of bad faith.

In light of the above facts and reasons, the Panel finds the Complainants have 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 <aldicashgiveaway.com> be transferred to the Second Complainant Aldi Stores Limited.

/Linda Chang/

Linda Chang

Sole Panelist

Date: June 1, 2023