

## **ADMINISTRATIVE PANEL DECISION**

All for One Group SE v. DEE Genesis

Case No. D2022-0573

### **1. The Parties**

The Complainant is All for One Group SE, Germany, represented internally.

The Respondent is DEE Genesis, Nigeria.

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

The disputed domain name <aii-for-one.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2022. On February 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 19, 2022, the Registrar 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 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 March 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 4, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on April 11, 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.

On April 14, 2022, the Panel issued Procedural Order No. 1 inviting the Complainant to specify before April 20, 2022 the “trademark or service marks in which the Complainant has rights” and allowing the Respondent to comment by April 22, 2022. The Complainant sent its submission to the Center on April 20, 2022. The Respondent did not provide any comments before the set deadline.

#### **4. Factual Background**

The Complainant is a consultancy firm advising in *inter alia* the area of Information Technology.

The Complainant is founded in 1959. The Complainant has its principal place of business in Germany and is registered at the “Handelsregister B des Amtsgerichts Stuttgart” (Commercial Register B of the Stuttgart Local Court) under the name All for One Group (the “Trade Name”) and is using the Trade Name for its business.

The Complainant is the owner of the trademark registrations for the word mark ALL FOR ONE:

- Austrian trademark, with registration number 247334, registered on October 7, 2008;
- German trademark, with registration number 302008060951, registered on June 1, 2010.

These trademarks will hereinafter together be referred to, in singular, as the “Trademark”.

The Domain Name is registered on January 18, 2021. The Domain Name does not resolve to an active web page.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Insofar as relevant for deciding this matter, the Complainant contends the following.

The Domain Name is confusingly similar to the Trademark. The Respondent used the Domain Name for sending scam e-mails following the same format as the official e-mail addresses used by the Complainant.

The Respondent used the e-mail addresses in such a way that the two “i’s” in the Domain Name were shown as capital letters. It is thus practically impossible to distinguish the e-mail addresses related to the Domain Name from the official e-mail addresses of the All for One Group SE.

The Respondent has no rights or legitimate interests in the Domain Name. There is not any evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. Contrary, the Domain Name was used in a fraud attempt by an attacker impersonating an employee of the Complainant and attempting to induce a customer to make an upcoming payment of EUR 450,000 to another account. This fraud attempt has been reported to the Cybercrime Central Contact Point of the police in Baden-Württemberg, Germany.

The Domain Name was registered and is being used in bad faith. By using the Domain Name, there was an intentional fraud attempt to attract for commercial gain, by creating a confusion with the Trademark as to the endorsement of the Respondent’s service on the Respondent’s website.

##### **B. Respondent**

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

## 6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (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 in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Noting the burden of proof on the Complainant, the Respondent's default (*i.e.* failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed.

The Respondent's default is not necessarily an admission that the Complainant's claims are true. See in this regard WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3 "In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent's default – a complainant has failed to prove its case. Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent".

### A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the Domain Name must be shown to be identical or confusingly similar to that mark.

The Complainant has shown that it has rights in the Trademark.

As set out in the [WIPO Overview 3.0](#) section 1.7, the first element functions primarily as a standing requirement. The threshold test for confusing similarity between the Domain Name and the Trademark involves a relatively straightforward comparison.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark. The Domain Name consists of the Trademark in almost its entirety, in which the letters "l" in the word "all" are replaced by two "i"s. This change of letters that also have a visual similarity, does not prevent a finding of confusing similarity between the Domain Name and the Trademark.

As stated in [WIPO Overview 3.0](#), section 1.11.1, the addition of the gTLD ".com" "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark.

Therefore, the Panel is satisfied that the first element of the Policy is met.

### B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

(i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or

(ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or

(iii) making 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 used the Domain Name in an email address to commit fraud, in particular to attempt to make a customer pay EUR 450,000. The Respondent impersonated an employee of the Complainant by using the Domain Name in its email address.

According to [WIPO Overview 3.0](#) section 2.13.1, impersonation or other types of fraud can never confer rights or legitimate interests on the Respondent.

Therefore the Respondent has made unfair use of the Domain Name and the Domain Name was not being used in connection with a *bona fide* offering of goods and services. Furthermore the Respondent is not commonly known by the Domain Name and is also not making any legitimate noncommercial or fair use of the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy is met.

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

The Panel finds that the Domain Name was registered and is being used in bad faith.

The Panel refers to its considerations under section 6.B and adds the following.

Based on the facts presented to the Panel, there is no other plausible explanation than that the Respondent intentionally registered the Domain Name with the intent to use the Domain Name to engage in fraudulent activities, such as sending a scam email to impersonate an employee of the Complainant and thus to attempt to make a customer of the Complainant to pay EUR 450,000 into another account. Bad faith registration and use of the Domain Name is thus a given.

Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. See section 3.4 of the [WIPO Overview 3.0](#).

Therefore, the Panel is satisfied that the third element of the Policy is met.

## **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 Domain Name <aai-for-one.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: April 22, 2022