

## **ADMINISTRATIVE PANEL DECISION**

Aldi Stores Limited, Aldi GmbH & Co. KG v. Domain Administrator, Registrant of aldisstore.com / Chen Xiansheng  
Case No. D2022-1872

### **1. The Parties**

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

The Respondent is Domain Administrator, Registrant of <aldisstore.com>, United Kingdom / Chen Xiansheng, Singapore.

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

The disputed domain name <aldisstore.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 12, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 28, 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 Complainants on May 30, 2022, 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 June 6, 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 June 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 1, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on July 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 Complainants are Aldi GmbH & Co. KG., the owner of the trademark registrations relied upon in this Complaint, and Aldi Stores Limited, the licensee of the said trademark registrations, which are engaged in grocery retailing with more than 5,000 stores across the world. According to the Complainants, ALDI is currently the most recognized supermarket brand in the United Kingdom.

The Complainants own a number of well-known registered trademarks comprising the ALDI name, including the following:

- European Union Registration No. 001954031 for ALDI, of April 2, 2002, and
- United Kingdom Registration No. 00002250300 for ALDI, of March 30, 2001.

The disputed domain name was registered on November 18, 2021, and is inactive.

#### **5. Parties' Contentions**

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

The Complainants inform that the disputed domain name incorporates their ALDI trademark with the letter "s" and the word "store", suggesting that it will host a webpage relating to goods or services specifically sold by the Complainants. In addition, the Complainants mention that Internet users will be confused into believing that the disputed domain name is registered to, or at least operated, authorized or endorsed by the Complainants.

The Complainants inform that they have not licensed or otherwise authorized the Respondent to use its trademarks, and that it has no rights or legitimate interests in respect of it. Furthermore, the Complainants say that the Respondent has not conducted any prior business under the name ALDI in connection with the *bona fide* offering of goods or services.

According to the Complainants, the registration of the disputed domain name took unfair advantage of the Complainants' rights, which predate the registration date of the disputed domain name. The Complainants argue that the disputed domain name has been or is planning to be used to attract Internet users for commercial gain, creating a likelihood of confusion with the ALDI trademark.

The Complainants add that there is the distinct possibility that the disputed domain name was registered in order that the Respondent might offer it for sale to either the Complainants (or their competitors) at a higher price than the cost of the registration, which constitutes bad faith.

Finally, the Complainants request the transfer of the disputed domain name.

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

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

## 6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

### A. Identical or Confusingly Similar

The evidence demonstrates that the Complainants are the owner of trademark registrations for ALDI in different jurisdictions.

The disputed domain name incorporates the Complainants' trademark ALDI in its entirety. The addition of the letter "s" and the term "store" does not avoid a finding of confusing similarity between the disputed domain name and the Complainants' trademark, as the Complainants' trademark is recognizable within the disputed domain name.

It is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, or otherwise) to a trademark in a domain name would not prevent a finding of confusing similarity under the first element of the UDRP. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")

As numerous prior UDRP panels have also recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainants, *i.e.*, the disputed domain name is confusingly similar to the Complainants' trademark.

### B. Rights or Legitimate Interests

The Respondents have not submitted any response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainants' trademark or to register domain names containing the Complainants' trademark ALDI.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Moreover, the term "store" in the disputed domain name gives the idea that the disputed domain name refers to a website where the Complainants' products can be purchased. Thus, the construction of the disputed domain name itself is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1, [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain name, which incorporates the Complainants' trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondents have no rights or legitimate interests in the disputed domain name.

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

The trademark ALDI is registered by the Complainants in several countries and the disputed domain name incorporates it in its entirety. The Respondent has no rights or legitimate interests in the disputed domain name.

The Complainants' ALDI mark is distinctive and well known. Thus, a domain name that comprises such a mark is undoubtedly suggestive of the registrant's bad faith.

The disputed domain name includes the letter "s" as well as the word "store", which in this case may indeed serve as an additional evidence of the registration of the disputed domain name in bad faith, considering that such term is related to the Complainant's business activities. It is easy for a consumer to be deceived into thinking that the website corresponding to the disputed domain name refers to a platform regarding the Complainants' products.

Finally, the Respondent has chosen not to respond to the Complainants' allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#): "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

While it seems that the disputed domain name has not been actively used for a website, passive holding of the disputed domain name does not prevent a finding of bad faith, considering the reputation of the Complainants' trademark ALDI, the failure of the Respondent to submit a Response, and the fact that the Respondent used a privacy service to conceal its identity. See section 3.3 of the [WIPO Overview 3.0](#)

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used in bad faith.

### **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, <aldisstore.com> be transferred to the Complainants.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: July 13, 2022.