

ADMINISTRATIVE PANEL DECISION

**Ally Financial Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico,
and Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-2279**

1. The Parties

The Complainant is Ally Financial Inc., United States of America (“United States”), represented by CSC Digital Brand Services AB, Sweden.

The Respondents are Carolina Rodrigues, Fundacion Comercio Electronico, Panama and Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Names and Registrars

The disputed domain names <allyhomeloan.com>, <allyhoamloans.com>, <allyhomeloads.com>, <allyhomeloana.com>, <allyhomeloanes.com>, <allyhome-loans.com>, <allyhomelosns.com>, <allyhomelo0ans.com>, <allyhomwloans.com>, <wwwallyhomeloan.com> are registered with GoDaddy.com, LLC (the “Registrar”).

The disputed domain name <allyhomesloans.com> is registered with Media Elite Holdings Limited dba Register Matrix (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2022. On June 23, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 24, 2022, and July 8, 2022, the Registrars transmitted by email to the Center their verification responses confirming that the Respondents are 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 Respondents of the Complaint, and the proceedings commenced on July 8, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was July 28, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on July 29, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on August 2, 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 United States based company, which roots date back to the year 1919. Its services include insurance, online banking, investment services, mortgage operations, and commercial finance. Since 2009, it rebranded itself as "Ally" and became a public company.

The Complainant is the owner of the word marks ALLY, ALLY HOME and ALLY HOME LOANS. Its trademarks are registered in various jurisdictions. For instance, the Complainant is the owner of the United States Trademark Registration No. 5581273 for ALLY HOME LOANS, registered on October 9, 2018, No. 5329772 for ALLY HOME, registered on November 7, 2017, and No. 3667814 for ALLY, registered on August 11, 2009. The registered trademarks cover protection for services primarily related to financial services. (Annex 1 to the Complaint).

The Complainant further holds and operates various domain names, such as <ally.com> and <allyhomeloans.com> (Annexes 4, 5 and 8 to the Complaint).

The Complaint involves 11 disputed domain names, which are registered to multiple Respondents. The date of first registration for all of the disputed domain names is between September 2020 and January 2022, as can be seen below:

[1] <allyhomeloan.com>	July 16, 2021;
[2] <allyhoamloans.com>	January 25, 2022;
[3] <allyhomeloads.com>	January 17, 2022;
[4] <allyhomeloana.com>	January 17, 2022;
[5] <allyhomeloanes.com>	January 25, 2022;
[6] <allyhome-loans.com>	August 3, 2021;
[7] <allyhomelosns.com>	January 21, 2022;
[8] <allyhomelo0ans.com>	July 16, 2021;
[9] <allyhomwloans.com>	January 21, 2022;
[10] <wwwallyhomeloan.com>	August 18, 2021;
[11] <allyhomesloans.com>	September 4, 2020.

The Respondents are composed of various registrants reportedly located in Panama.

Ever since their registration, the disputed domain names resolve to parking pages, which are used in connection with pay-per-click ("PPC") links some of which relate to home loans, mortgages and other related services (Annex 3 to the Complaint).

Prior to initiation of this administrative proceeding, the Complainant tried to solve the dispute amicably by sending cease and desist letters to the Respondents, asking for the transfer of the disputed domain names (Annex 11 to the Complaint). This approach remained without any reaction by the Respondents.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain names.

First, the Complainant requests consolidation of the Respondents arguing that the registrants of the disputed domain names are connected to one another and should be considered as the same domain name holder for the purpose of this administrative proceeding.

The Complainant is further of the opinion that the disputed domain names are confusingly similar to its ALLY, ALLY HOME and ALLY HOME LOANS trademarks.

It further argues that the Respondents have no rights or legitimate interests in respect of the disputed domain names. In this regard, it is particularly argued that the Complainant has no commercial relationship with the Respondents and that the Respondents have never been granted with a license or any other authorization to use the Complainant's trademarks.

In addition, the Complainant is convinced that the Respondents have registered and are using the disputed domain names in bad faith. It is argued that the Respondents must have been well aware of the Complainant and its trademarks, when acquiring the disputed domain names. In this regard, the Complainant believes that the Respondents are serial cybersquatters, who are engaged in pattern of registering domain names deliberately infringing third parties' trademark rights. The Complainant puts forward that the Respondents have been previously involved in numerous UDRP cases, which were all decided against them (Annex 10 to the Complaint).

The Complainant is convinced that the Respondents target the business of the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issues

As neither the Policy nor the Rules provides provisions for the consolidation of claims against multiple respondents into a single administrative proceeding, UDRP panels generally apply the principles for consolidation as set out at section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Section 4.11.2 of the [WIPO Overview 3.0](#) states the following: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". See also, *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

In this regard, previous UDRP panels particularly considered the following aspects in determining whether consolidation is appropriate: similarities in or relevant aspects of (i) the registrants' contact information, (ii) the content or layout of websites corresponding to the disputed domain names, (iii) whether the registrants are targeting a specific sector, and (iv) the relevant language/scripts of the disputed domain names.

In light of the criteria set out above, there are strong indications that all the disputed domain names are under common control.

In view of the Panel, the Complainant has provided sufficient evidence that the Respondents are either the same person or at least connected to each other. This is particularly indicated by various undisputed facts, such as that all disputed domain names (i) comprise one or two-letter misspellings of the Complainant's trademark ALLY HOME LOANS, (ii) resolve to similar-looking websites with pay-per-click links some of which relates to home loans, mortgages or similar services, and (iii) were all registered between end of 2020 and beginning of 2022 (partly with same registration dates) by registrants located in Panama.

The Panel concludes that the Respondents must have acted collaboratively and, hence, accepts that all disputed domain names are under common control. Additionally, the Panel is convinced that in the present case consolidation of multiple respondents is procedurally efficient, fair, and reasonable to all parties.

The Panel therefore, for the purpose of this decision, accepts the case to be dealt with in a consolidated Complaint and will refer, whenever appropriate, to the Respondents as "the Respondent" below.

6.2. Substantive Issues

According to paragraph 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no formal Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain names are identical or confusingly similar to the trademarks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not formally replied to the Complaint. See *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having trademark rights in ALLY, ALLY HOME and ALLY HOME LOANS (Annex 1 to the Complaint).

The Panel further finds that the disputed domain names are confusingly similar to the Complainant's registered trademarks.

As stated at section 1.9 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, misspellings would not prevent a finding of confusing similarity.

In the present case, the Panel notes that all disputed domain names incorporate apparent misspellings of the Complainant's ALLY HOME LOANS trademark. In view of the Panel, all the incorporated misspellings make the Complainant's ALLY, ALLY HOME and ALLY HOME LOANS trademarks still well recognizable within the

disputed domain names.

Hence, the Panel concludes that the disputed domain names are confusingly similar to the Complainant's ALLY, ALLY HOME and ALLY HOME LOANS trademarks.

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

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain names to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license to use the Complainant's ALLY, ALLY HOME and ALLY HOME LOANS trademarks in a confusingly similar way within the disputed domain names.

In the absence of a Response to the Complainant's contentions, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain names. Rather, the Panel is convinced that the Respondent deliberately has chosen the disputed domain names to cause confusion with the Complainant and its trademarks. In light of the above, the Panel particularly does not see any indication for assessing a *bona fide* offering of goods or services by the Respondent.

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

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain names in bad faith.

The Panel is convinced that the Respondent must have had the Complainant's trademarks in mind when registering the disputed domain names. The Panel believes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users and/or to freeride on the goodwill of the Complainant's ALLY, ALLY HOME and ALLY HOME LOANS trademarks, apparently for illegitimate commercial gain and/or to disrupt the Complainant's business.

Furthermore, by registering multiple domain names all containing obvious misspellings of the Complainant's ALLY HOME LOANS trademark, the Respondent appears to be engaged in a bad faith pattern of domain name registration. At least, the Panel cannot conceive of any good faith use of the disputed domain names which is not related to the ALLY, ALLY HOME and ALLY HOME LOANS trademarks owned by the Complainant.

The Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

The Panel therefore concludes that the disputed domain names were all registered and are being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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 names <allyhomeloan.com>, <allyhoamloans.com>, <allyhomeloads.com>, <allyhomeloana.com>, <allyhomeloanes.com>, <allyhome-loans.com>, <allyhomelosns.com>, <allyhomelo0ans.com>, <allyhomesloans.com>, <allyhomwloans.com>, and <wwwallyhomeloan.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: August 16, 2022