

## **ADMINISTRATIVE PANEL DECISION**

**Altro Limited v. 1&1 Internet Limited / Carvalet.Co.UK Limited / Matt Williams**  
Case No. D2022-2463

### **1. The Parties**

The Complainant is Altro Limited, United Kingdom, represented by Barker Brettell LLP, United Kingdom.

The Respondent is 1&1 Internet Limited, United Kingdom / Carvalet.Co.UK Limited, United Kingdom / Matt Williams, United Kingdom.

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

The disputed domain name <autoglymlifeshine.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2022. On July 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 Complainant on July 11, 2022, 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 amended Complaint on July 13, 2022.

The Center verified that the Complaint together with the amended 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 July 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2022. The Respondent sent informal communications to the Center on July 13, 2022, July 14, 2022, and on August 11, 2022. The Response was filed with the Center on August 8, 2022.

The Center appointed Antony Gold as the sole panelist in this matter on August 17, 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's business was founded in 1919, and is based in Hertfordshire, United Kingdom. It has a number of different divisions, one of which is a car care product manufacturer named Autoglym.<sup>1</sup>

The Complainant's Autoglym-branded goods include products for the care and protection of vehicle interiors, glass, bodywork and wheels and are sold in over 45 countries. Since 2004, the Complainant has also used the trade mark LIFESHINE in relation to those of its vehicle treatments and coatings which are professionally applied at car dealerships, as well in respect of an associated range of aftercare products.

The Complainant has protected its AUTOGLYM and LIFESHINE brands through trade mark registrations, including;

- United Kingdom trade mark registration number, 1556936 for AUTOGLYM in class 3, registered on December 9, 1994;
- United Kingdom trade mark registration number 2278066 for LIFESHINE in classes 1, 2, and 3, registered on January 25, 2002.

The Complainant also owns domain names incorporating the above marks, including <autoglym.com> and <lifeshine.com>, which resolve to websites relating to its products.

The Respondent operates a car valet business, which was established in 1988. It has purchased the Complainant's products since 1990, and became one of its franchisees in October 2002.

The disputed domain name was registered by the Respondent on July 24, 2013. On the same date, the Respondent also registered the domain name <autoglymlifeshine.co.uk> and, on July 6, 2021, it formed a registered limited company in the United Kingdom with the name Autoglymlifeshine.co.uk Limited ("the limited company"). In a letter to the Complainant dated October 27, 2021, the Respondent claimed that; "The registration of autoglymlifeshine.co.uk was part of our commercial and strategic plan to expand and grow the Lifeshine brand further by offering a fully mobile specialist, bespoke alternative application process for dealers and car repairers alike" and that it had formed the limited company because it was the Respondent's practice to register, as company names, domain names it had acquired and used. It said that the limited company had not traded and, in relation to its domain name registrations, it had been its intention "to ensure that all plans and requirements were in place and then to present our business plan to Autoglym for approval".

Following their registration, both the disputed domain name and <autoglymlifeshine.co.uk> redirected to a page on the principal website used by the Respondent at "www.carvalet.co.uk". The home page of this website was headed "carvalet.co.uk", beneath which was the strapline; "your number one car valeting specialist – mobile – 7 days a week". Underneath the strapline was a heading; "autoglym lifeshine". The opening words of the section which followed were; "if you are after a full interior and exterior paint protection system, this is the solution for you. autoglym have produced their lifeshine product to help protect both the inside and outside of the car...". Lower down the webpage was a text box which contained the claim; "we are the only mobile valet company that is an autoglym lifeshine approved applicator". The webpage also featured claims that the Respondent's staff had been trained and certified by the Complainant.

---

<sup>1</sup> References in the remainder of this decision to "the Complainant" are, save where the context otherwise requires, to the Complainant's Autoglym division.

On October 13, 2021, the Complainant wrote to the Respondent making a number of complaints about the claims made by the Respondent on its website. Additionally, it drew attention to its trade marks for AUTOGLYM and LIFESHINE and stated that, by its formation of the limited company and its registration of the domain name <autoglymlifeshine.co.uk>, the Respondent was infringing its marks. The Complainant asked the Respondent, amongst other matters, to change the name of the limited company and to transfer to it the domain name <autoglymlifeshine.co.uk>. It is evident from the Complainant's letter that it was, at this point, unaware of the Respondent's ownership of the disputed domain name.

The Respondent replied on October 29, 2021, pointing out what it considered to be a number of factual errors in the Complainant's letter and taking issue with a number of other assertions made by the Complainant. It said that, on the same date that it had registered <autoglymlifeshine.co.uk>, it had also registered the disputed domain name and it sought to justify its registration of both the domain names and the formation of the limited company on the bases set out above. The Respondent accepted that "earlier interaction with Autglym/Altro could have been beneficial for both parties when autoglymlifeshine.co.uk was registered".

On January 7, 2022, evidently following a telephone call between the parties, the Complainant sent an email to the Respondent stating that it wished to terminate the relationship between the parties, because it had changed its preferred route to market, but that it would repurchase from the Respondent its stock of unsold Lifeshine products. On January 27, 2022, the Respondent replied, questioning whether the basis on which the Complainant was purportedly terminating the trading relationship was genuine. Following further communications between the parties, the Respondent offered to sell the disputed domain name to the Complainant, but the parties could not agree on a price.

The disputed domain name now redirects to "www.autoglymlifeshine.co.uk" where a notice appears, explaining that the Respondent is no longer able to sell Autoglym Lifeshine products, and saying that the Complainant has confirmed that this was not due to any negative issues in terms of the Respondent's services.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant says that the disputed domain name is identical or confusingly similar to a trade mark in which it has rights. The disputed domain name incorporates the Complainant's AUTOGLYM and LIFESHINE marks in their entirety and does not contain any additional elements to distinguish it from the Complainant's marks.

The Complainant says also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. As at the time of registration of the disputed domain name, the Complainant had established trade mark rights in AUTOGLYM and LIFESHINE. As at the date of registration of the disputed domain name, the Respondent was a franchisee of the Complainant and had received training from it and was therefore fully aware of the Complainant's marks and that it had no legitimate basis to use them in the disputed domain name. The Respondent is not commonly known by the disputed domain name, nor is it making a legitimate noncommercial or fair use of it, because it is misleadingly diverting consumers to its business by trading off the reputation which the Complainant has in its marks.

The Complainant says also that the disputed domain name was registered and is being used in bad faith. Whilst the Respondent was previously authorized to sell the Complainant's products, it was never authorized to register the disputed domain name, as it contained the Complainant's marks. The Respondent's use of the disputed domain name takes unfair advantage of the Complainant's marks. Moreover, as the disputed domain name contains no additional matter which would identify the Respondent, it is likely that consumers will be confused into believing that the Complainant is the owner of the disputed domain name and commercially affiliated with the Respondent, which is not the case. As the Respondent is using the disputed

domain name to advertise its own services, such use is in bad faith. Although the Respondent has offered to sell the disputed domain name to the Complainant, a purchase price cannot be agreed. Furthermore, whilst the content on the website to which the disputed domain name presently resolves displays a message that the Respondent is no longer authorized to sell the Complainant's Autoglym Lifeshine products, such use might change in the future. The disputed domain name is being used by the Respondent, contrary to paragraph 4(b)(iv) of the Policy, in that it seeks to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the affiliation and/or endorsement of its website.

## **B. Respondent**

The Respondent says its valeting business was first established in 1988. It rebranded as carvalet.co.uk in May 2013, and now uses the domain name <carvalet.co.uk> for its business. It has purchased and used the Complainant's products since 1990, and when it became a franchisee of the Complainant in October 2002, it thereby became authorized to use the Complainant's logos and other intellectual property. Since 2009, it has been one of the Complainant's appointed Lifeshine applicators and has featured as such on the Complainant's website. There has never been an occasion where the Complainant has expressed dissatisfaction with the Respondent's services.

At some point in the parties' relationship, the Respondent discussed with the Complainant setting up a specialist valeting business focusing on use of the Complainant's Lifeshine products. This would have entailed the acquisition of the disputed domain name. The purchase of the disputed domain name was undertaken in order to redirect Internet traffic to the Respondent's webpage at "www.carvalet.co.uk/lifeshine", as this would increase enquiries and sales of the Complainant's Lifeshine products. The page on the Respondent's website to which the disputed domain name redirected did not contain any prominent logos, or links to promotional material, of the Complainant. In fact, no reference was made to the Complainant's Autoglym or Lifeshine brands other than to confirm the Respondent's authorized status with the Complainant. Accordingly, there was no chance of customer confusion and none has arisen.

When the Complainant contacted the Respondent on October 13, 2021, it did not assert any infringement of its intellectual property or confusion on the part of the members of the public. Instead, the Complainant asserted that the Respondent has purchased products other than through official channels and that the Respondent has no authority to own or use the disputed domain name. The Respondent refuted the Complainant's claims on October 29, 2021. The Complainant subsequently shifted its position and asserted that the Respondent's authorization to use its Lifeshine products was being removed. The Complainant has refused to clarify exactly when such authorization was withdrawn. In subsequent correspondence, the Respondent set out suggested terms for unravelling the relationship between the parties, including that the Complainant purchase the disputed domain name. The parties were not able to reach agreement and the Complainant has behaved in an oppressive manner and has not attempted to resolve the dispute between the parties.

Given the length of time that has elapsed since the registration of the disputed domain name, the Complainant must, or should, have known about the Respondent's registration. The Respondent had no dishonest intent in registering the disputed domain name and did so in order to expand the Complainant's Lifeshine brand in a positive and mutually beneficial manner. There is no evidence that any consumers have been misled by the Respondent's use of the disputed domain name. When the Complainant objected to the Respondent's ownership of the disputed domain name, the Respondent offered to sell it to the Complainant and remains willing to do so at a reasonable price. The Complainant has failed to provide in its Complaint a detailed history of the relationship between the parties and is seeking to obtain, without cost, the disputed domain name, which was purchased in good faith by the Respondent over 8 years ago.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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.

### A. Identical or Confusingly Similar

The Complainant has provided examples of its trade mark registrations for AUTOGLYM and LIFESHINE, as set out above. It has thereby established its rights in these marks.

As the disputed domain name comprises both the Complainant's AUTOGLYM and LIFESHINE marks, it is therefore technically not identical to either mark given that they are combined in the disputed domain name. However, the fact that both marks are contained within the disputed domain name does not prevent it from being considered confusingly similar to each of them (being identical to each). As explained at section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)): "Where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

Each of the Complainant's marks is clearly recognizable within the disputed domain name and the Panel accordingly finds that the disputed domain name is confusingly similar to trade marks in which the Complainant has rights.

### B. Rights or Legitimate Interests

Before turning to a consideration of the second and third elements under the Policy, it should be noted that, in both the correspondence exchanged between the parties prior to the commencement of these proceedings and its Response, the Respondent has articulated a number of complaints, directly and indirectly related to the parties' trading relationship and the Complainant's termination of it. However, the factual issues the Panel is required to consider are limited to the discrete circumstances of the Respondent's registration and use of the disputed domain name.

Paragraph 4(c) of the Policy provides, without limitation, examples of circumstances whereby a respondent might demonstrate that it has rights or legitimate interests in a domain name. In summary, these are: if a respondent has used, or made demonstrable preparations to use, the domain name in connection with a *bona fide* offering of goods and services; if a respondent has been commonly known by the domain name; or if a respondent has made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark in issue.

The Respondent does not assert that it has been commonly known by the disputed domain name and the second circumstance set out above is accordingly inapplicable. Whether the Respondent has been using the disputed domain name in connection with a *bona fide* offer of goods and services and/or whether it has been making a fair use of it are, in the circumstances of these proceedings, connected issues and are considered together.

The question of whether a reseller or distributor who was using a domain name containing a complainant's trademark to undertake sales related to a complainant's goods or services should be considered to be making a *bona fide* offering of goods and services, and thereby to have a legitimate interest in the domain name, was considered in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). The panel in *Oki Data* set out a number of cumulative requirements, generally known as the "Oki Data test", for the

purpose of evaluating whether a respondent's use of the domain name could establish rights or a legitimate interest in it.

For the reasons set out below, it is not necessary to deal in detail with these criteria. The Panel comments only that whilst the Respondent's activities fall partially within their scope, the final requirement is that a respondent must not try to corner the market in domain names which reflect the complainant's trade mark. In this respect, the Panel notes that the Respondent also registered the domain name <autoglymlifeshine.co.uk> and it is, perhaps, an open question as to how many domain names the Respondent needs to have registered before it could be said to have "cornered the market" in domain names which reflect the Complainant's marks.

It is not, however, necessary for the Panel to determine this point, because of the issue which arises from the composition of the disputed domain name. Irrespective of whether a respondent's use of a domain name satisfies the Oki Data test, a domain name comprising solely a complainant's mark or marks, will generally be considered inherently misleading as Internet users are apt to associate the domain name specifically with the complainant and not with a third party provider of goods and/or services connected with it. In this respect, see *Trinnov Audio S.A. v. Ronald van Ovost*, WIPO Case No. [DNL2017-0060](#). See also section 2.8.2 of the [WIPO Overview 3.0](#); "Cases applying the Oki Data test usually involve a domain name comprising a trademark plus a descriptive term (e.g., "parts", "repairs", or "location"), whether at the second-level or the top-level. At the same time, the risk of misrepresentation has led panels to find that a respondent lacks rights or legitimate interests in cases involving a domain name identical to the complainant's trademark".

The disputed domain name comprises no element additional to the Complainant's marks that would either lead Internet users to associate it specifically with the Respondent's business or to suggest to them that it has been registered by an independent company providing services relating to the Complainant's products. As it comprises solely the Complainant's AUTOGLYM and LIFESHINE marks, Internet users will very likely assume that it is owned by the Complainant. To this extent, the Respondent's registration and use of the disputed domain name is inherently misleading and not fair. See *UNISTELLAR v. Contact Privacy Inc. Customer 0164412292 / cc ww, Unistellar.Store*, WIPO Case No. [D2022-2258](#) and also section 2.5.1 of the [WIPO Overview 3.0](#); "Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation". For these reasons, the Respondent has not therefore used the disputed domain name in connection with a *bona fide* offering of goods and services, nor is it making a noncommercial or fair use of it.

It follows that none of the three circumstances set out at paragraph 4(c) of the Policy by which a respondent might establish that it has rights or legitimate interests in the disputed domain name have been established, nor is there any other basis for making such a finding. The Panel accordingly finds that the Respondent has no rights or interests in respect of the disputed domain name.

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

The Respondent has acknowledged that it was aware of the Complainant's AUTOGLYM and LIFESHINE marks as at the date of registration of the disputed domain name, but it argues in its Response that the Complainant was, or should have been, aware of its registration and that the Complainant has delayed in taking action in response. However, there is no evidence before the Panel that either the Respondent notified the Complainant of its registration of the disputed domain name at any time prior to its letter to the Complainant dated October 29, 2021, nor that the Complainant otherwise became aware of the disputed domain name, nor is there any reason why the Complainant should have realized that it had been registered by the Respondent and acquiesced to the same. Indeed, the Respondent acknowledged in its letter that earlier notification by the Respondent to the Complainant of its registration of <autoglymlifeshine.co.uk> (and, implicitly, of the disputed domain name) would have been helpful, which suggests that no prior notification had been given by the Respondent to the Complainant.

The Respondent asserts that, as a franchisee of the Complainant, it was entitled to use its intellectual property. However, the Complainant expressly denies that the Respondent had any permission to register a domain name incorporating its marks and the Respondent has not produced any evidence pointing to any express or implied consent or licence by the Complainant to registration by the Respondent of a domain name which included its trade marks. Moreover, the correspondence exchanged between the parties prior to the commencement of proceedings is entirely consistent with the Complainant's position. Registration of a domain name incorporating solely a complainant's marks without its consent amounts to bad faith; see, for example, *Fritz Egger GmbH & Co. OG and Egger Australasia Pty Ltd v. Domain Admin, Proform Products Pty Ltd*, WIPO Case No. [DAU2022-0006](#) and *Straight Arrow Products, Inc. v. Aiden Devine, Orchard Equestrian Limited*, WIPO Case No. [DIE2014-0006](#). The Panel accordingly finds the registration of the disputed domain name to have been in bad faith.

The only known use which the Respondent has made of the disputed domain name has been in order to redirect Internet users to its principal website. As discussed above, such users are apt to assume from the fact that the disputed domain name comprises solely two of the Complainant's marks, that any website to which it resolves will be operated by or with the consent of the Complainant. The fact that when they arrive at the Respondent's website, they will realize their mistake is immaterial because the Respondent will, by then, have obtained the opportunity of selling goods and services to them, whether relating to the Complainant's Lifeshine products or otherwise. The Respondent's claim that its use of the disputed domain name will result, directly or indirectly, in increased sales to the Complainant of its Lifeshine-branded goods and services is not a material consideration because the disputed domain name is being used without the Complainant's licence or other authority and is inherently misleading. Nor does the Respondent's assertion that it is unaware of any instances of confusion arising from its use of the disputed domain name carry any weight; Internet users who might have been misled into visiting the Respondent's website, would not necessarily complain to it and the use of the disputed domain name in the hands of the Respondent has the clear capacity to confuse.

The Respondent's use of the disputed domain name therefore falls within the circumstance of bad faith set out at paragraph 4(b) of the Policy sets in that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The fact that the Respondent is currently using the disputed domain name in order to redirect to a webpage on which it has placed a notice commenting on the termination of its trading relationship with the Complainant does not preclude a finding of bad faith on these grounds.

The Panel accordingly finds that the Respondent has registered and is using the disputed domain name 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 <autoglymlifeshine.com> be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: August 31, 2022