

## **ADMINISTRATIVE PANEL DECISION**

Universal Services of America, LP d/b/a Allied Universal v. 1&1 Internet Inc /  
Maria Gozales, Allied Universal  
Case No. D2022-2841

### **1. The Parties**

The Complainant is Universal Services of America, LP d/b/a Allied Universal, United States of America (“United States”), represented by Cozen O’Connor, United States.

The Respondent is 1&1 Internet Inc, United States / Maria Gozales, Allied Universal, United States.

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

The disputed domain name <aus-allied-universal.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 August 2, 2022. On August 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 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 August 8, 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 amendment to the Complaint on the same date.

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 August 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on September 29, 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 in the business of providing security services. It owns the trademark ALLIED UNIVERSAL for which it has obtained registration in the United States (e.g., Reg. No. 5,136,006, registered on February 7, 2017). The Complainant uses the letters “aus” (standing for “Allied Universal Services”) in connection with its business operations, and its corporate website published using the domain name <aus.com>.

According to the Whois records, the disputed domain name was registered on July 12, 2022. As of the time of the filing of the Complaint, the Respondent had not established an active website at the disputed domain name.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

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

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

#### **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

##### **A. Identical or Confusingly Similar**

This first element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the ALLIED UNIVERSAL mark by providing evidence of its trademark registrations.

It is standard practice when comparing a disputed domain name to a complainant’s trademarks to not take the Top-Level Domain into account. See [WIPO Overview 3.0](#) at 1.11.1 (“The applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as

such is disregarded under the first element confusing similarity test.”).

The disputed domain name incorporates the ALLIED UNIVERSAL mark in its entirety with the letters “aus”, which do not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s ALLIED UNIVERSAL mark. See [WIPO Overview 3.0](#), section 1.8. The ALLIED UNIVERSAL mark remains sufficiently recognizable for a showing of confusing similarity under the Policy.

The Panel finds that the Complainant has established this first element under the Policy.

## **B. Rights or Legitimate Interests**

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) the Respondent is not affiliated with the Complainant, (2) there is no evidence to suggest that the Respondent has registered the disputed domain name to advance legitimate interests or for the *bona fide* offering of legitimate goods or services, and (3) the Respondent cannot claim to be commonly known by the disputed domain name. Instead, the Respondent’s passive holding of the disputed domain name, in the Complainant’s view, is an illegitimate purpose in an apparent attempt to “syphon off of [the] Complainant’s goodwill” in the ALLIED UNIVERSAL mark.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent’s favor. In this regard, the Panel notes that the registrant organization identified in the registration details of the disputed domain name is “Allied Universal”, however, there is no evidence before the Panel that the Respondent is actually commonly known by the disputed domain name or “Allied Universal”. Rather, it appears most likely that such details were specifically chosen to falsely suggest an affiliation with the Complainant, possibly in connection to a planned impersonating or fraudulent use of the disputed domain name.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s widely known trademark and the letters “aus” – which the Complainant uses in connection with its services and its corporate domain name – carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. *Columbia Insurance Company v. Name Redacted*, WIPO Case No. [D2022-0528](#); [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

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

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use.

Because the Complainant’s ALLIED UNIVERSAL mark is well known and enjoys the benefits of registration, the Panel finds it likely that the Respondent was aware of the mark when it registered the disputed domain name. This knowledge is further shown by the Respondent’s use of the letters “aus” as part of the disputed domain name. Such letters, as noted above, are used by the Complainant in connection with its services and within its corporate domain name. In the circumstances of this case, without the benefit of any explanation whatsoever from the Respondent as to a possible good faith use of the disputed domain name, such a showing is sufficient to establish bad faith registration of the disputed domain name.

The circumstances also demonstrate bad faith use of the disputed domain name. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or 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 section 3.1.4 of the [WIPO Overview 3.0](#)). Moreover, where a disputed domain name is “so obviously connected with such a well-known name and products [...] its very use by someone with no connection with the products suggests opportunistic bad faith”. See *Parfums Christian Dior v. Javier Garcia Quintas*, WIPO Case No. [D2000-0226](#). Furthermore, from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)). Taking into account the above, and notably the lack of any response, the Panel is unable to consider any plausible good faith use of the disputed domain name by the Respondent.

The Complainant has established this third UDRP element.

## 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 <aus-allied-universal.com> be transferred to the Complainant.

*/Evan D. Brown/*

**Evan D. Brown**

Sole Panelist

Date: October 13, 2022