

ADMINISTRATIVE PANEL DECISION

Allstate Insurance Company v. kelvin maeur
Case No. D2022-3360

1. The Parties

The Complainant is Allstate Insurance Company, United States of America (“United States” or “US”), represented by SILKA AB, Sweden.

The Respondent is kelvin maeur, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <allstateline.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 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 (Domain Administrator, See PrivacyGuardian.org, US) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 September 13, 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 September 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2022. Due to an apparent issue with the notification, on October 17, 2022, the Center granted the Respondent until October 22, 2022 to indicate whether the Respondent would like to participate to this proceeding. The Respondent did not submit any communication.


The Center appointed Zoltán Takács as the sole panelist in this matter on October 24, 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

Founded in 1931, the Complainant is one of the largest publicly held personal lines insurers in the United States.

As of July, 2022, the Complainant ranked No. 66 of the Fortune 500 list of the largest US corporations by total revenue.

The Complainant's portfolio of trademarks consisting of or comprising the ALLSTATE trademark, include:

- United States Trademark Registration No. 0717683 for the word mark ALLSTATE, registered since June 27, 1961 for services of class 36 of the Nice Agreement Concerning the International Classification of Good and Services for the Purpose of the Registration of Marks (the "Nice Classification"),
- United States Trademark Registration No. 4500664 for the figurative mark  , registered since March 25, 2014 for services of class 36 of the Nice Classification, and
- European Union Trade Mark Registration ("EUTM") No. 000040527 for the word mark ALLSTATE registered since February 12, 1998 for services of class 36 of the Nice Classification.

Since May 10, 1995 the Complainant owns the domain name <allstate.com>, which links to its corporate website.

The disputed domain name was registered on December 26, 2021 and previously resolved to a website that reproduced the Complainant's distinctive ALLSTATE figurative trademark and offered investment services. At the time of filing of the Complaint and rendering of this decision, the disputed domain name did not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its ALLSTATE trademark.

The Complainant further alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the Respondent is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii) or (iii) of the Policy.

The Complainant claims that the Respondent registered the disputed domain name with actual knowledge of its well-known ALLSTATE trademark and used it to impersonate the Complainant, or otherwise mislead Internet users as to the source of the Respondent's website, which constitutes registration and use of the disputed domain name in bad faith.

The Complainant requests that the disputed domain name <allstateline.com> be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely 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

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a trademark, then it generally satisfies the threshold requirement of having trademark rights (section 1.2.1 of the [WIPO Overview 3.0](#)).

The Complainant produced proper evidence of having registered rights in the ALLSTATE trademark as mentioned in section 4 above, and for the purpose of this proceeding the Panel finds that the Complainant's ALLSTATE trademark has satisfied the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assessed whether the disputed domain name is identical or confusingly similar to the Complainant's ALLSTATE trademark.

According to section 1.7 of the [WIPO Overview 3.0](#), the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark 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.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in the present case ".com") is viewed as a standard registration requirement and as such is generally

disregarded under the first element confusingly similar test.

The Complainant's ALLSTATE trademark is evidently recognizable within the disputed domain name, and the disputed domain name differs from the Complainant's trademark only in the addition of the term "line" to it.

It is well established in previous UDRP cases that the addition of the other term to a trademark in a domain name does not avoid a finding of confusing similarity.

The Panel finds that the disputed domain name <allstateline.com> is confusingly similar to the Complainant's ALLSTATE trademark and that requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established rights in the ALLSTATE trademark.

The Complainant has never authorized the Respondent to use its ALLSTATE trademark in any way, and its prior rights in the trademark long precede the date of registration of the disputed domain name.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with the relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Respondent defaulted and failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter the Complainant's *prima facie* case.

The website under the disputed domain name prominently featured the Complainant's distinctive figurative ALLSTATE trademark and listed the contact address of the Complainant's investing sub-organization as the Respondent's head office address, fraudulently misrepresenting to Internet users as being an official website of the Complainant.

UDRP panels have categorically held that the use of a domain name for illegal activity, such as impersonation/passing of, or other types of fraud can never confer rights or legitimate interests on a respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

The Complainant presented undisputed evidence that the Respondent has registered and is using the disputed domain name in bad faith.

The website to which the disputed domain name pointed prominently featured the Complainant's distinctive figurative ALLSTATE trademark and listed the contact address of the Complainant's investing sub-organization's office as the Respondent's head office address.

In the Panel's opinion, this demonstrates that the Respondent knew of the Complainant and its ALLSTATE trademark when registering the disputed domain name. The Respondent's intent to target the Complainant's ALLSTATE trademark can be readily inferred from the content of the Respondent's website, seeking to effectively impersonate the Complainant, and the Panel finds that that the Respondent has registered and is using the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark within the meaning of paragraph 4(b)(iv) of the Policy.

The fact that at the time of filing the Complaint and rendering of this decision, the disputed domain name did not resolve to an active website does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied.

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 <allstateline.com> be transferred to the Complainant.

Zoltán Takács

Sole Panelist

Date: November 7, 2022