

## **ADMINISTRATIVE PANEL DECISION**

**Aldi GmbH & Co. KG, Aldi Stores Limited v. Basir Mulla**  
**Case No. D2023 -0117**

### **1. The Parties**

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

The Respondent is Basir Mulla, Bangladesh.

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

The disputed domain name <aldiresources.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023. On January 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2023, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2023 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 January 13, 2023.

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 January 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on February 13, 2023. 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 part of the same corporate under common control, and both Complainants have an interest in the right relied upon, and therefore a common grievance against the Respondent. Since the Complainants are part of the same group, they will be collectively referred to as the “Complainant” hereinafter.

The Complainant, incorporated in 1988, is a supermarket that trades under the trademark ALDI. The Complainant is recognized as international leader in grocery retailing with more than 5,000 stores across the world, being active in Australia, Austria, Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, Spain, Switzerland and the United States of America.

The Complainant holds trademark registrations for ALDI worldwide, such as the following:

- the United Kingdom Trademark registration no. UK00002250300 for the word ALDI, filed on October 26, 2000 and registered on March 30, 2001, and covering goods and services in Nice classes 1, 3, 5, 6, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, 34 and 35; and
- the European Union Trademark registration no. 002071728 for the word ALDI, filed on December 27, 2000 and registered on April 14, 2005, and covering goods and services in Nice classes 3, 4, 7, 9, 16, 24, 25, 29, 31, 31, 32, 33, 34 and 36.

The Complainant holds domain names incorporating the ALDI trademark, the main one being <aldi.co.uk>.

The disputed domain name <aldiresources.com> was registered on June 21, 2022 and at the time of filing the Complaint, it was used in relation to a website where a banner stating “SWIFT TRAVELS AND TOURS” was posted together with the invitation, for the Internet users, to insert the passport number. As part of the general powers of the Panel, as articulated, *inter alia*, in paragraph 10 of the Rules, the Panel has consulted the use of the disputed domain name through the Internet Web Archive.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

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

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

## 6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the ALDI trademark.

The disputed domain name <aldiresources.com> incorporates the Complainant's trademark with the additional term "resources". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not avoid a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the generic Top -Level Domain ("gTLD") (e.g., ".com", ".site", ".career", ".org") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the trademark ALDI, pursuant to the Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark ALDI, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, "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 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". See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

The disputed domain name incorporates the Complainant's distinctive trademark in its entirety together with a term. Such fact, together with the other circumstances in this case, does not amount to a *bona fide* or legitimate use.

For these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

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

The Complainant holds trademark rights in ALDI since at least 2000. This Panel accepts the Complainant's evidence that the ALDI trademark gained reputation in its industry.

The disputed domain name was registered in 2022 and incorporates the Complainant's trademark with a dictionary term.

For the above, the Panel finds that the disputed domain name was registered in bad faith, knowing and targeting the Complainant, its business and trademark.

At the time of filing the Complaint, the disputed domain name was connected to a website apparently providing travel services and asking Internet users to provide their personal details, *i.e.* the passport number.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's distinctive trademark, the Respondent did not provide any response in this proceeding and on the website operated under the disputed domain name there is no disclaimer regarding the (lack of any) relation between the Respondent and the Complainant, in this Panel's view, on the balance of probabilities, it is more likely than not, that the Respondent has intended to attract Internet users to the disputed domain name by creating a likelihood of confusion with the Complainant's trademark to suggest that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Further, Internet users accessing the website under the disputed domain name were invited to provide potentially sensitive personal data. Such data scraping could conceivably be used for potential illicit online activity and in the present circumstances is a further indication of bad faith.

The Respondent has not participated in the present proceeding in order to put forward any arguments in its favor and provided inaccurate contact information in the WhoIs. Such facts, together with all the other elements in this case, in the eyes of this Panel, further support a finding of bad faith.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's widely known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## 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 <aldirsources.com> be transferred to the Complainant Aldi GmbH & Co. KG, Germany.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: February 27, 2023