

ADMINISTRATIVE PANEL DECISION

**Aldi GmbH & Co. KG and Aldi Stores Limited v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2023-1468**

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <aldirectment.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2023. On April 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on April 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on April 12, 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 April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 5, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on May 26, 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 Aldi GmbH & Co. KG and Aldi Stores Limited. Aldi GmbH & Co. KG is the registered proprietor of a number of registered trade marks for marks comprising the ALDI name. Aldi Stores Limited is under common control with Aldi GmbH & Co. KG and is a licensee of those trade mark registrations. The Complainants and their connected companies operate supermarkets. The Complainants' ALDI mark has been recognised as well-known by numerous prior UDRP panels, including in *Aldi GmbH & Co. KG, Aldi Stores Limited v. Cja Jeansson*, WIPO Case No. [D2017-0012](#).

The Complainants own numerous registered trade marks for ALDI, including United Kingdom Trade Mark Registration No. UK00002250300 ALDI in classes 01, 03, 05, 06, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, 34 and 35 with registration date March 30, 2001.

The Domain Name was registered on October 6, 2022, and resolved to a website featuring pay-per-click ("PPC") advertising for recruitment services, amongst others, when the Panel visited the Domain Name.

5. Parties' Contentions

A. Complainants

The Complainants contend that the Domain Name is confusingly similar to their well-known ALDI mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and has been used in bad faith given the repute of the Complainants' mark and the potential to deceive consumers into believing that the Domain Name is connected with the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Preliminary Issue – Consolidation – Multiple Complainants

The Panel notes that the Complainants are two entities within a group of related companies that have a specific common grievance: the Complainants both have interests in the ALDI mark, either as owner or licensee, and the Domain Name targets both and takes unfair advantage of their ALDI mark. It would be equitable and procedurally efficient to allow consolidation in these circumstances (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 4.11.1).

B. Identical or Confusingly Similar

The Complainants' ALDI mark is contained within the Domain Name as its first element with the addition of the term "recrutment" (an obvious misspelling of "recruitment"). Where the trade mark is recognisable within the disputed domain name, as in this case, the addition of other terms (including descriptive terms) does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#) at section 1.8). The Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The Complainants' ALDI mark was registered and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainants' mark and the Complainants have certified that the Domain Name is unauthorised by them.

As discussed in the bad faith section below, it is likely that the Respondent's intention in registering and using the Domain Name was to take advantage of the Complainants' reputation for the Respondent's commercial gain. Such usage of the Domain Name cannot represent a *bona fide* offering of goods or services (*TNT Holdings B. V. v. Sylvie Bona*, WIPO Case No. [D2008-1070](#)).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainants have satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

D. Registered and Used in Bad Faith

UDRP panels have consistently found that registration of a domain name that is confusingly similar to a famous or well-known trade mark by an unaffiliated entity (as in this case) can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

The Complainants' well-known ALDI mark has no generic or descriptive meaning that the Respondent might in good faith have sought to adopt, and the mark is highly specific to the Complainants. It is therefore difficult to conceive of any good faith use of the Domain Name, the composition of which implies that it is associated with the Complainant's recruitment initiatives. This indicates bad faith under paragraph 4(b)(iv) of the Policy ([WIPO Overview 3.0](#) at section 3.1.4).

The Panel has independently established that the Domain Name is listed for sale on a prominent domain name marketplace with a minimum offer set at USD 899, which is likely, without evidence from the Respondent to the contrary, in excess of the Respondent's out-of-pocket expenses relating directly to the Domain Name. Thus, paragraph 4(b)(i) of the Policy is also applicable.

The Panel notes that the Respondent is a notorious cybersquatter, having lost hundreds of UDRP cases in circumstances where the *modus operandi* exhibited in this case was identical or highly similar. This case would appear to be a continuation of that pattern.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainants have satisfied 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 Domain Name, <aldirecruitment.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: June 9, 2023