

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG and Aldi Stores Limited v. Daniel Galvin
Case No. D2023-1470

1. The Parties

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

The Respondent is Daniel Galvin, UK.

2. The Domain Name and Registrar

The disputed domain name <aldiroblox.com> (“the Domain Name”) is registered with Wix.com Ltd. (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 11, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on the same date, 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 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2023.

The Center appointed Dawn Osborne as the sole panelist in this matter on June 19, 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 first Complainant owns, and the second Complainant is the exclusive licensee in the UK of, *inter alia*, the trade mark ALDI no. UK00002250300 for supermarket retail services registered since 2001. The mark is well known.

The Domain Name registered on October 17, 2022 has not been used.

Preliminary Issue: Multiple Complainants

Given that the first Complainant owns, and the second Complainant is the exclusive licensee in the UK of, *inter alia*, the trade mark ALDI no. UK00002250300 for supermarket retail services registered since 2001 the Panel holds that both Complainants have sufficient nexus to bring the Complaint jointly.

5. Parties' Contentions

A. Complainants

The Complainants' contentions can be summarised as follows:

The first Complainant owns, and the second Complainant is the exclusive licensee in the UK of, *inter alia*, the trade mark ALDI no. UK00002250300 for supermarket retail services registered since 2001. The mark is well known and the Complainants own considerable goodwill therein.

The Domain Name registered in 2022 is confusingly similar to the Complainants' trade mark containing it in its entirety with the addition of "roblox" which is the name of a computer game platform which does not distinguish the Domain Name from the Complainants' mark.

The Respondent has no rights or legitimate interests in the Domain Name, is not commonly known by it and is not authorised by the Complainants or either of them.

There is no *bona fide* offering of goods or services or a legitimate noncommercial or fair use. It is registration and use in opportunistic bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name consists of the Complainants' well known mark ALDI (which is registered, *inter alia*, in the UK for supermarket retail services since 2001), the term "roblox" (the name of a computer game platform) and a generic Top-Level Domain ".com".

Previous panels have found confusing similarity when a respondent merely adds a term and a gTLD to a complainant's mark. The addition of the term "roblox" and the gTLD ".com" does not prevent confusing similarity between the Domain Name and the Complainants' mark.

Accordingly, the Panel holds that the Domain Name is confusingly similar to the Complainants' registered mark.

As such the Panel holds that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainants have not authorised the use of their mark. The Respondent is named in the Whois as Daniel Galvin and there is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name.

There has been no use of the Domain Name which is being passively held. It is commonly held that inactive use is not a *bona fide* offering of goods or services pursuant to Policy 4(c)(i) and by itself does not demonstrate a legitimate noncommercial or fair use.

The Respondent has not answered this Complaint and has not rebutted the *prima facie* case evidenced by the Complainants as set out herein.

As such the Panel finds that the Respondent does not have rights or legitimate interests in the Domain Name and that the Complainants have satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

The Respondent has not made any active use of the Domain Name. Previous UDRP panels have found evidence of bad faith registration and use pursuant to Policy 4(a)(iii) where a respondent fails to make any active use of a domain name containing a well known mark. See *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#) (concluding that the respondent's [failure to make active use of the] domain name satisfies the requirement of 4(a)(iii) of the Policy). The Complainants assert that the Respondent must have known of its mark as it is well known. The Respondent has not responded and, therefore, has not denied that this is the case. The Respondent is passively holding a Domain Name containing the Complainants' well known mark.

The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from or exploit the trade mark of another. Passive holding of a domain name containing a well known mark is not enough to disprove an allegation of bad faith in such circumstances. See *Telstra Corporation Limited v Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

As such, the Panel holds that the Complainants have made out their case that the Domain Name was registered and used in bad faith and have satisfied the third limb 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 disputed domain name, <aldiroblox.com>, be transferred to Aldi Stores Limited.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: July 3, 2023