

## **ADMINISTRATIVE PANEL DECISION**

LIDL Stiftung & Co. KG v. Huang Hechang, xiamen xiangsuchuhai technology Ltd.

Case No. D2023-2755

### **1. The Parties**

The Complainant is LIDL Stiftung & Co. KG, Germany, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Huang Hechang, xiamen xiangsuchuhai technology Ltd., China.

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

The disputed domain name <lidldeals.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 June 28, 2023. On June 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 (PrivacyGuarding.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 29, 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 July 4, 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 July 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on August 17, 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 Complainant belongs to the LIDL-Group, a global discount supermarket chain based in Germany. The LIDL-Group operates more than 12,000 stores with over 300,000 employees. Currently its stores can be found in 31 countries. The Complainant offers various additional services such as mobile phone network and travel services.

The Complainant owns multiple registrations of the trademark LIDL including registrations whose protection also extends to China, where the Respondent is allegedly located, *e.g.* International Registration No. 974355 registered on May 9, 2008 for goods and services in international classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and International Registration No. 748064 registered on July 26, 2000 for goods and services in international classes 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14, 16, 18, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39.

The Complainant operates a number of websites, that incorporates the LIDL trademark such as “www.lidl.de”.

The disputed domain name was registered on June 7, 2023, and initially resolved to a website that purported to sell clothing but which now resolves to a website displaying a CLOSED sign.

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark LIDL. The disputed domain name incorporates the Complainant's trademark in its entirety together with the solely descriptive term “deals”.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not in any way affiliated with the Complainant nor has the Respondent been authorized by the Complainant to use the Complainant's trademarks. In addition, a noncommercial or fair use of the disputed domain name is not cognizable just as there is no *bona fide* offering of goods or services.

The Complainant finally contends, that the Respondent has registered and used the domain name in bad faith. “Lidl” is not a common dictionary word and the Complainant's trademarks are extremely well known and have a strong reputation around the world. It is thus inconceivable that the Respondent was not aware of the Complainant's trademarks when the disputed domain name was registered. The Respondent has used the disputed domain name to attract Internet users to an active website that could create the impression that it was an official website of the Complainant or an authorized affiliate of the Complainant.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the trademark and service mark LIDL for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "deals", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

### C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that the Respondent initially used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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, <lidldeals.com>, be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: September 5, 2023