

ADMINISTRATIVE PANEL DECISION

Splice Video Editor S.r.l. v. Alight motion and Ladu Blogs

Case No. D2023-3253

1. The Parties

The Complainant is Splice Video Editor S.r.l., Italy, represented by Bugnion S.p.A., Italy.

The Respondents are Alight motion, Pakistan, and Ladu Blogs, India (collectively hereafter referred as the “Respondent”).

2. The Domain Names and Registrars

The disputed domain names <alightmotion.app> (the “first disputed domain name”) and <alightmotion.net> (the “second disputed domain name”) are registered with Squarespace Domains II LLC¹ and NameCheap, Inc., respectively (collectively hereafter referred as the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2023. On July 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 28, 2023, the Registrars transmitted by email to the Center verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown/Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 3, 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 amended Complaint on August 4, 2023. In the Complaint and the amended Complaint, the Complainant requested the consolidation of the Complaint against the Respondent.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for

¹ The Complaint was filed identifying the registrar as Google LLC for the disputed domain name <alightmotion.app>. On September 25, 2023, Google LLC confirmed that the disputed domain name <alightmotion.app> is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed that both Squarespace Domains II LLC and Google LLC will comply with the UDRP and the Decision will be implemented.

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 August 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2023. On August 4, 2023, the Center received an informal email from the email belonging to the Respondent Alight motion requesting information about the proceeding. No other communication was received from the Respondent. Accordingly, the Center notified the Parties on September 6, 2023 that it would proceed to panel appointment.

The Center appointed Reyes Campello Estebarez as the sole panelist in this matter on September 28, 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 is a fully owned subsidiary of Bending Spoons S.p.A., which was founded in 2013 and operates on the mobile application software industry. The Complainant’s group develops mobile application software. One of the mobile applications developed by the Complainant and its group is Alight Motion application (“App”), which was first released in August 2018 and is a professional motion design app, providing professional quality animation, motion graphics, visual effects, video editing, and video compositing, among other features. The Alight Motion App is available for downloading on Google Play store for Android, and on the Apple App Store for iPhone, iPad and Mac, and it has been downloaded by more than 100 million users worldwide.

The Complainant owns various registrations comprising its trademark ALIGHT MOTION and a logo (depicted below) that are used in connection to this App, including:

- European Union Trademark Registration No. 018597593, ALIGHT MOTION, figurative, registered on March 17, 2022, in classes 9, 35, 41, and 42, with the following representation **Alight Motion** and
- European Union Trademark Registration No. 018597598, for a logo, registered on March 17, 2022, in classes 9, 35, 41, and 42, with the following representation: 

(Hereafter referred as the “ALIGHT MOTION mark” and the “ALIGHT MOTION logo”, respectively).

The Complainant further owns various domain names comprising the ALIGHT MOTION mark, including <alightmotion.com> and <alightcreative.com> (both registered on February 7, 2018) that resolve to its official website for the promotion of the Alight Motion App.

The first disputed domain name <alightmotion.app> was registered on May 9, 2020, and the second disputed domain name <alightmotion.net> was registered on December 9, 2021. Both disputed domain names resolve to websites, in the English language, that purport to offer the free download of the Complainant’s Alight Motion App. These websites reproduce the ALIGHT MOTION mark and the ALIGHT MOTION logo, and do not contain any information about the relationship or lack of relationship of these sites with the Complainant or its trademarks.

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 names.

Notably, the Complainant contends that the disputed domain names are identical to the ALIGHT MOTION mark, as both wholly incorporate and exclusively consist of the term "alight motion", and the generic Top-Level Domain ("gTLD"), which is a standard registration requirement that must be disregarded under the first element confusing similarity test.

The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has never authorized the registration and use of the disputed domain names, nor to offer the Alight Motion App free. The Respondent's websites make unauthorized use of the Complainant's trademarks and copyright protected images that must have been misappropriated from the official digital distribution services at Google Play and App Store. Unauthorized software installation may include exposure to sensitive data, to malicious software, unauthorized access to the system, introducing instability or software incompatibility issues, or even damage to the system hardware. The use of the disputed domain names for an illegal activity can never confer rights or legitimate interests on the Respondent.

The disputed domain names were registered and are being used in bad faith. The use of the disputed domain names, which ever since their registration have been associated with websites that offer the Complainant's App free, displaying the ALIGHT MOTION mark and the ALIGHT MOTION logo, and using copyrighted protected images of the Complainant's App without any authorization, corroborates the Respondent's bad faith. The Respondent's websites falsely generate an affiliation with the Complainant and its trademarks, creating a likelihood of confusion, and, potentially they may be used for phishing or other fraudulent activities.

B. Respondent

Except for the email communication mentioned in the section 3. above, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Procedural Question: Complaint Consolidated Against Multiple Registrants

Considering the circumstances of the case, the Panel consider that the consolidation is fair and equitable to the Parties and the disputed domain names are subject to common control. These circumstance include *inter alia*, the following: (i) the composition of the disputed domain names, both identically incorporating the ALIGHT MOTION mark; (ii) the similar content of the websites linked to the disputed domain names, both in the English language, both including the Complainant's trademarks and logo, and both offering free downloading of the Complainant's App; and (iii) although the Respondent Alight motion sent an email communication requesting information about the proceeding, it did not object to the Complainant's request for consolidation.

Accordingly, based on the record, the Panel finds that it is more likely than not that the disputed domain names are subject to common control, and the consolidation is procedurally efficient, fair and equitable to the Parties.

B. 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 a trademark or service mark for the purposes of the Policy, namely the ALIGHT MOTION mark. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the ALIGHT MOTION mark is reproduced within both of the disputed domain names, adding no other element but the gTLD (".app" or ".net") which is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. Accordingly, the disputed domain names are identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.11.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

C. 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent's websites purportedly offer free downloading of the Complainant's App, these websites include the Complainant's trademark and its logo, as well as various copyrighted images of the Complainant's App promotion material without any authorization. These websites further include no information about their lack of relationship with the Complainant and its trademarks. These circumstances indicate that the Respondent is not making a *bona fide* offering goods or services. On the contrary, these circumstances generate a likelihood of confusion or association with the Complainant and its trademarks that cannot be considered a *bona fide* offering under the Policy.

The Panel further notes that the above-mentioned generated false affiliation is enhanced by the fact that the disputed domain names are identical to the ALIGHT MOTION mark.

The Panel further finds that, according to the Complainant's allegations, the use of the disputed domain names in connection to websites that offer the possibility of downloading the Complainant's App free may be connected to any type of phishing activity, distribution of malware, or other fraudulent activities, which cannot confer rights under the Policy.

Moreover, although the registrant for the second disputed domain name is "Alight motion", based on the available record, there is no evidence showing that this registrant is commonly known by the second disputed domain name.

All these circumstances lead the Panel to conclude that nothing in the case file gives any reason to believe that the Respondent has any rights or legitimate interests in respect of the disputed domain names.

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

D. 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.

In the present case, the Panel notes that the Respondent's websites include the Complainant's trademark and its logo, as well as copyrighted promotion images of the Complainant's app without authorization, and the disputed domain names are identical to the ALIGHT MOTION mark. The Panel finds that these circumstances indicate an intention to target the Complainant and its trademarks, and to create a likelihood of confusion with the Complainant in the registration and the use of the disputed domain names.

The Panel further notes that the Respondent has not formally responded to the Complaint, not providing any evidence of rights or legitimate interests in respect of the disputed domain names, and has not rebutted the Complainant's allegations of bad faith.

The Panel further notes that the use of the disputed domain names in connection to the activity of downloading free software may potentially be used for distribution of malware and collecting personal data.

Therefore, having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy. Accordingly, 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 names, <alightmotion.app> and <alightmotion.net>, be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: October 10, 2023