

ADMINISTRATIVE PANEL DECISION

Lidl Stiftung & Co. KG v. Name Redacted
Case No. D2023-4730

1. The Parties

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

The Respondent is Name Reacted.¹

2. The Domain Name and Registrar

The disputed domain name <entreprises-lidl.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 2024, 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 in English on November 23, 2023.

On November 22, 2023, the Center informed the parties in French and English, that the language of the registration agreement for the disputed domain name is French. On November 23, 2023, the Complainant requested that English be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 in both English and French, and the proceedings commenced on November 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Matthew Kennedy, as the sole panelist in this matter on February 1, 2024. 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 discount supermarket chain that operates more than 10,000 stores in 31 countries. The Complainant holds trademark registrations in multiple jurisdictions, including European Union trade mark registration number 018192764 for LIDL, registered on December 8, 2020, specifying goods and services in multiple classes. That registration remains current. The Complainant has also registered multiple domain names including <lidl.de> that it uses in connection with a website where it operates an online store.

The Respondent’s name, as disclosed by the Registrar and identified in the Registrar’s WhoIs database, is that of an actual manager of Lidl France Snc, who has previously been a victim of identity theft.

The disputed domain name was registered on June 29, 2022. It does not resolve to an active website. It has been used to create an email address from which emails were sent on September 9 and September 13, 2023 and allegedly other dates. The emails were ostensibly sent by a purchasing manager of the Complainant to suppliers of the Complainant seeking to place orders for products.

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 its LIDL mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. No permission to use LIDL was granted by the Complainant to the Respondent, in particular, not under the email address of the Respondent. The disputed domain name does not resolve to an active website and is being used as part of a fraud scheme. The disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amendment to the Complaint were filed in English. The Complainant requested that the language of the proceeding be English. Its main reasons are that the Respondent knows English as certain emails sent from its contact email address were in both French and English; and the Complainant is not familiar with French.

Despite the Center having sent an email regarding the language of the proceeding and the Notification of Complaint in both French and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the LIDL trademark. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name wholly incorporates the LIDL mark. It is preceded by the word "entreprises" (meaning "enterprises" in French), separated from the mark by a hyphen. However, the mark remains clearly recognizable within the disputed domain name. The disputed domain name also incorporates a generic Top-Level Domain ("gTLD") extension (".com") which, as a standard requirements of domain name registration, may be disregarded in the assessment of confusing similarity. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's LIDL mark. See [WIPO Overview 3.0](#), sections 1.8 and 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name wholly incorporates the LIDL mark with a French word meaning “enterprises”, separated by a hyphen, which in effect impersonates the Complainant. The disputed domain name does not resolve to an active website. However, according to the evidence presented by the Complainant, the disputed domain name has been used to create an email address from which emails have been sent to the Complainant’s suppliers, impersonating an actual purchasing manager of the Complainant in order to obtain products. The Complainant submits that it has not granted any permission to the Respondent to use the LIDL mark, whether in the Respondent’s email address or otherwise. In view of these circumstances, the Panel considers that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, nor is it making a legitimate noncommercial or fair use of the disputed domain name. Further, although the registrant name in the Registrar’s Whois database is that of an actual manager of the Complainant, followed by the Lidl name, the circumstances indicate that these are not the Respondent’s genuine name or organization name but, rather, a case of identity theft.

Further, Panels have held that the use of a domain name for illegal activity, such as impersonating a third party to obtain goods, can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the available 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 such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name was registered in 2022, after the registration of the Complainant’s LIDL mark in the European Union, where the Respondent ostensibly operates. The disputed domain name wholly incorporates the LIDL mark and combines it only with a French word meaning “enterprises”, separated by a hyphen, and a gTLD extension. The Respondent has used the disputed domain name to create an email address, from which emails have been sent presenting the Complainant’s business and using the name of an actual purchasing manager of the Complainant. In view of these circumstances, the Panel finds that the Respondent was aware of the Complainant when he registered the disputed domain name.

As regards the use of the disputed domain name, it has been used to send emails to suppliers of the Complainant, impersonating an actual purchasing manager of the Complainant. Prior panels under the Policy have held that the use of a domain name for illegal purposes other than hosting a website, such as impersonating a third party to obtain goods, constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <entreprises-lidl.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: February 13, 2024