

ADMINISTRATIVE PANEL DECISION

LIDL Stiftung & Co. KG v. 苏俊荣 (JunRong Su)
Case No. D2023-4779

1. The Parties

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

Respondent is 苏俊荣 (JunRong Su), China.

2. The Domain Names and Registrars

The disputed domain names <lidlboxninja.com>, <lidlNexus.com>, <lidlshopaegisx.com>, <lidlshopchampionhub.com>, <lidlshopempirepro.com>, <lidlshopfusion.com>, <lidlshopgeniusx.com>, <lidlshoppalace.com>, <lidlshoptech360.com>, <lidlshopvirtuoso.com>, <lidlshopxpertise.com>, <lidlshopzenonx.com>, and <ultimatelidlshop.com> are registered with Cloud Yuqu LLC.

The disputed domain name <lidlshopsynergy.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd.

Cloud Yuqu LLC and Chengdu West Dimension Digital Technology Co., Ltd are hereinafter referred to as the “Registrars”. All disputed domain names are hereinafter referred to as the “Domain Names”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2023. On November 17, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On November 20 and 27, 2023, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Unknown / Redacted) and contact information in the Complaint. The Center sent an email communication to Complainant on November 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on November 29, 2023.

On November 27, 2023, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. On November 29, 2023, Complainant requested English to be the language of the proceeding. Respondent did not submit any comment on the language of the proceeding.

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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on December 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 5, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on January 11, 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

Complainant, is part of the LIDL Group, a global discount supermarket chain based in Germany. The LIDL Group operates more than 10,000 stores with over 300,000 employees in 31 countries. In Germany, the LIDL group operates about 3,200 stores. Complainant offers various additional services, such as mobile phone network and travel services.

Complainant owns numerous registered trademarks with the LIDL mark globally, such as:

- German trademark registration number 302019018984, for the LIDL word mark, registered on September 18, 2019;
- International trademark registration number 1541701, for the LIDL word mark, registered on January 30, 2020; and
- European Union trademark number 018192764, for the LIDL word mark, registered on December 8, 2020.

Complainant also contends that it owns and operates several domain names, including <lidl.com>, <lidl.de>, <lidl.fr>, and <lidl.es>.

The Domain Names were registered on the following dates and at the time of the filing of the Complaint, redirected as follows:

Domain Name	Registration Date	Website at the Domain Name
<lidlboxninja.com>	September 8, 2023	to a site that displayed Complainant’s trademark, imitated or attempted to pass off as Complainant’s website
<lidlshoppalace.com>	September 27, 2023	to a site that displayed Complainant’s trademark, imitated or attempted to pass off as Complainant’s website
<lidlNexus.com>	September 27, 2023	to an inactive site but on November 15, 2023, resolved to a site that displayed Complainant’s trademark, imitated or attempted to pass off as Complainant’s website
<lidlshopfusion.com>	September 27, 2023	to a site that displayed Complainant’s trademark, imitated or attempted to pass off as Complainant’s website

<lidlshopaegisx.com>	September 28, 2023	to a third party website
<lidlshopzenonx.com>	September 28, 2023	to a third party website
<lidlshopchampionhub.com>	September 12, 2023	to a site that displayed Complainant's trademark, imitated or attempted to pass off as Complainant's website
<lidlshopempirepro.com>	September 12, 2023	to a third party website
<lidlshopgeniusx.com>	September 12, 2023	to an inactive website but on November 15, 2023, resolved to a site that displayed Complainant's trademark, imitated or attempted to pass off as Complainant's website
<lidlshopsynergy.com>	September 12, 2023	to a site that displayed Complainant's trademark, imitated or attempted to pass off as Complainant's website
<lidlshoptech360.com>	September 12, 2023	to an inactive site
<lidlshopvirtuoso.com>	September 12, 2023	to a site that displayed Complainant's trademark, imitated or attempted to pass off as Complainant's website
<lidlshopxpertise.com>	September 12, 2023	to a site that displayed Complainant's trademark, imitated or attempted to pass off as Complainant's website
<ultimatelidlshop.com>	September 12, 2023	to an inactive/blocked site

At the time of the Decision, each of the Domain Names resolves to an error or inactive page.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Names; and (iii) Respondent registered and are using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark registrations for LIDL and that Respondent registered and are using the Domain Names with the intention to confuse Internet users looking for *bona fide* and well-known LIDL products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Names. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Names, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its email dated November 29, 2023, Complainant requested that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreements for the Domain Names is Chinese.

Complainant contends that it is located in Germany, and neither it nor its representatives are familiar with Chinese; that the Domain Names are each formed by words in Latin characters and incorporate English words, for example, such as “shop”; none of the Domain Names resolves to a website in Chinese, but to content in Latin characters and English terms. Complainant also contends that it would be disproportionately expensive and unfairly burdensome for Complainant to translate and conduct the proceeding in Chinese and would also cause unnecessary delay in the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreements for the Domain Names, 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.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See section 1.2.1 of the [WIPO Overview 3.0](#).

Complainant has provided evidence of its rights in the LIDL trademarks, as noted above under section 4. Complainant has also submitted evidence which supports that the LIDL trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the LIDL trademarks.

With Complainant's rights in the LIDL trademarks established, the remaining question under the first element of the Policy is whether the Domain Names, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".com"), are identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Names are confusingly similar to Complainant's LIDL trademarks. These LIDL trademarks are recognizable in the Domain Names, as illustrated below (with emphasis added in bold):

Domain Name	Added Terms to the LIDL Mark in the Respective Domain Name
<lidlboxninja.com>	"box" and "ninja"
<lidlshoppalace.com>	"shop" and "palace"
<lidlnexus.com>	"nexus"
<lidlshopfusion.com>	"shop" and "fusion"
<lidlshopaegisx.com>	"shop", "aegis", and "x"
<lidlshopzenonx.com>	"shop", "zenon", and "x"
<lidlshopchampionhub.com>	"shop", "champion", and "hub"
<lidlshopempirepro.com>	"shop", "empire", and "pro"
<lidlshopgeniusx.com>	"shop", "genius", and "x"
<lidlshopsynergy.com>	"shop" and "synergy"
<lidlshoptech360.com>	"shop", "tech", and "360"
<lidlshopvirtuoso.com>	"shop" and "virtuoso"
<lidlshopxpertise.com>	"shop" and "xpertise"
<ultimate lidl shop.com>	"ultimate" and "shop"

In particular, the Domain Names' inclusion of Complainant's trademark LIDL in its entirety, in each case, with an addition of one or more terms as noted in the chart above does not prevent a finding of confusing similarity between each of the Domain Names and the LIDL trademarks. See section 1.8 of the [WIPO Overview 3.0](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its LIDL trademarks, and does not have any rights or legitimate interests in the Domain Names. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the LIDL trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the LIDL trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Names.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, Complainant asserts that each of the Domain Names resolved/redirected to one of: a website that attempts to imitate or pass off as Complainant's website; a third party website; or an inactive site (noted above in section 4), each of which has not been rebutted by Respondent. Such use does not constitute a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#). At the time of the Decision, all of the Domain Names resolve to an error or inactive page.

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a respondent, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the LIDL trademarks long predate the registration of the Domain Names. Complainant is also well established and known. Indeed, the record shows that Complainant's LIDL trademarks and related products and services are widely known and recognized. Moreover, some of the websites at the Domain Names displayed Complainant's LIDL trademark at the time of filing of the Complaint. Therefore, Respondent was aware of the LIDL trademarks when it registered the Domain Names. See section 3.2.2 of the [WIPO Overview 3.0](#); see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's LIDL trademark in its entirety and use of Complainant's LIDL trademark on some of the websites at the Domain Names suggest Respondent's actual knowledge of Complainant's rights in the LIDL trademarks at the time of registration of the Domain Names and its effort to opportunistically capitalize on the registration and use of the Domain Names.

In addition, the evidence provided by Complainant has shown that at the time of the filing of the Complaint, each of the Domain Names redirected/resolved to one of a respective website that: attempted to imitate or pass off as Complainant's website; to a third party website; or to an inactive site (noted above in section 4), each of which has not been rebutted by Respondent. Regarding the active websites associated with the Domain Names, the Panels finds that Respondent has registered the Domain Names to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion Complainant's LIDL mark. Regarding the inactive websites associated with the Domain Names, the Panel finds that the non-use of the Domain Names in this case does not prevent a finding of bad faith under the doctrine of passive holding particularly considering the reputation of Complainant's LIDL mark (section 3.3 of the [WIPO Overview 3.0](#)).

At the time of the Decision, all the Domain Names resolve to inactive webpages, which does not change the Panel's finding of Respondent's bad faith.

Further, the Panel also notes the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Names may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Names <lidlboxninja.com>, <lidl nexus.com>, <lidlshopaegisx.com>, <lidlshopchampionhub.com>, <lidlshopempirepro.com>, <lidlshopfusion.com>, <lidlshopgeniusx.com>, <lidlshoppalace.com>, <lidlshopsynergy.com>, <lidlshoptech360.com>, <lidlshopvirtuoso.com>, <lidlshopxpertise.com>, <lidlshopzenonx.com>, and <ultimatelidlshop.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: January 25, 2024