

ADMINISTRATIVE PANEL DECISION

Lidl Stiftung & Co. KG v. Private Whois and 苏俊荣 (JunRong Su)
Case No. D2024-0059

1. The Parties

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

The Respondents are Private Whois, Hong Kong, China, and 苏俊荣 (JunRong Su), China.

2. The Domain Names and Registrars

The disputed domain names <lidlador.com>, <lidlboltz.com>, <lidl-coupons.com>, <lidleonx.com>, <lidlfusion.com>, <lidlfusionx.com>, <lidlhook.com>, <lidlnovahub.com>, <lidlopusnet.com>, <lidlpalace.com>, <lidlprime.com>, <lidlshopadorn.com>, <lidlshopcrafter.com>, <lidlshopdynamo.com>, <lidlshopdynasty.com>, <lidlshopeclipse.com>, <lidlshopelevate.com>, <lidlshopenigma.com>, <lidlshopeonx.com>, <lidlshopevolvex.com>, <lidlshopgenesis.com>, <lidlshopgizmos.com>, <lidlshopharmony.com>, <lidlshophavenx.com>, <lidlshopignitex.com>, <lidlshopnook.com>, <lidlshopprime.com>, <lidlshopvivid.com>, <lidlsmasterpro.com>, <lidsunleashed.com>, <lidl titan craft.com>, <lidl vivid.com>, <lidlwhisperer.com>, <lidlwhizpro.com>, <lidlzenithpro.com>, <lidlzenithx.com>, <mightylidlkit.com>, <precisionlidlhub.com>, <techgizmolidls.com>, and <turbolidlcraft.com> are registered with Cloud Yuqu LLC; and the disputed domain names <lidlil.com> and <lidlly.com> are registered with Cosmotown, Inc. (collectively the “disputed domain names” and the “Registrars”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 5, 2024. On January 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 10 and 11, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 11, 2024 with registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants, or, alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that the disputed domain names are under common control. The Complainant filed an amendment to the Complaint in English on January 12, 2024.

On January 11, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreements for the disputed domain names, <lidlador.com>, <lidlboltz.com>, <lidl-coupons.com>, <lidleonx.com>, <lidlfusion.com>, <lidlfusionx.com>, <lidlhook.com>, <lidlnohavhub.com>, <lidlopusnet.com>, <lidlpalace.com>, <lidlprime.com>, <lidlshopador.com>, <lidlshopcrafter.com>, <lidlshopdynamo.com>, <lidlshopdynasty.com>, <lidlshopeclipse.com>, <lidlshopelevate.com>, <lidlshopenigma.com>, <lidlshopeonx.com>, <lidlshopevolvex.com>, <lidlshopgenesis.com>, <lidlshopgizmos.com>, <lidlshopharmony.com>, <lidlshophavenx.com>, <lidlshopignitex.com>, <lidlshopnook.com>, <lidlshopprime.com>, <lidlshopvivid.com>, <lidlmasterpro.com>, <lidsunleashed.com>, <lidltitancraft.com>, <lidlvivid.com>, <lidlwhisperer.com>, <lidlwhizpro.com>, <lidlzenithpro.com>, <lidlzenithx.com>, <mightylidlkit.com>, <precisionlidlhub.com>, <techgizmolidls.com>, and <turbolidlcraft.com>, is Chinese. On January 11, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondents did not submit any comment on the Complainant's submission.

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 Respondents in English and Chinese of the Complaint, and the proceeding commenced on January 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2024. The Center received an email in English from the Respondent Private Whois on January 13, 2024. The Respondents did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on February 8, 2024.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on February 14, 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

A. Complainant

The Complainant is a German corporation and part of the LIDL-Group, a global discount supermarket chain based in Germany. The LIDL-Group operates more than 10,000 stores in 31 countries, with over 300,000 employees, under the trade mark LIDL (the "Trade Mark"), including via several websites including "www.lidl.com", "www.lidl.fr", and "www.lidl.es".

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including International registration No. 1541701, with a registration date of January 30, 2020.

B. Respondents

The Respondents are apparently located in China.

C. The Disputed Domain Names

The disputed domain names <lidlfusionx.com>, <lidlnohavhub.com>, <lidlopusnet.com>, <lidlwhizpro.com>, and <lidlzenithx.com> were registered on September 3, 2023.

The disputed domain name <lidl-coupons.com> was registered on September 4, 2023.

The disputed domain names <lidsunleashed.com>, <lidl titan craft.com>, <lidlwhisperer.com>, <lidlzenithpro.com>, <mightyidlkit.com>, <precisionidlhub.com>, <techgizmolids.com>, <lidlboltz.com>, <turbolidlcraft.com>, and <lidlsmasterpro.com> were registered on September 8, 2023.

The disputed domain names <lidlnook.com>, <lidl adorn.com>, <lidleonx.com>, <lidlfusion.com>, <lidlpalace.com>, <lidlshopadorn.com>, <lidlshopeonx.com>, <lidlshopnook.com>, <lidlshopprime.com>, <lidlshopvivid.com>, and <lidlvivid.com> were registered on September 27, 2023.

The disputed domain names <lidlprime.com>, <lidlshopcrafter.com>, <lidlshopdynamo.com>, <lidlshopdynasty.com>, <lidlshopeclipse.com>, <lidlshopelevate.com>, <lidlshopenigma.com>, <lidlshopevolvex.com>, <lidlshopgenesis.com>, <lidlshopgizmos.com>, <lidlshopharmony.com>, <lidlshophavenx.com>, and <lidlshopignitex.com> were registered on September 28, 2023.

The disputed domain names <lidlil.com> and <lidlly.com> were registered on October 6, 2023.

D. Use of the Disputed Domain Names

The disputed domain name <lidlly.com> is resolved to an English language fake LIDL website, featuring the Trade Mark (including in figurative form) and the Complainant's corporate livery.

The disputed domain name <mightyidlkit.com> was previously resolved to an English language third party website, apparently offering for sale discounted third party branded tools and power tools. As at the date of this Decision, it is no longer resolved to an active website.

The disputed domain name <techgizmolids.com> is resolved to a fake LIDL website, featuring the Trade Mark (including in figurative form), and apparently offering for sale a range of third party branded products.

The disputed domain names <lidleonx.com>, <lidlnook.com>, <lidlsmasterpro.com>, <lidl adorn.com>, and <lidlshopnook.com> were previously resolved to fake LIDL websites, apparently offering for sale third party branded products, but are no longer resolved to active websites.

The remaining 34 disputed domain names have not been resolved to active websites.

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.

B. Respondents

The Respondents did not formally reply to the Complainant's contentions. The Respondent Private Whois sent an email to the Center stating that it is a domain name reseller, that it needs to contact the customer to investigate this matter; and that if the situation is true, it will stop the customer's domain name[s].

6. Discussion and Findings

6.1 Preliminary Issues

A. Language of the Proceeding

The language of the Registration Agreements for the disputed domain names, <lidl adorn.com>, <lidl boltz.com>, <lidl coupons.com>, <lidl leonx.com>, <lidl fusion.com>, <lidl fusionx.com>, <lidl nook.com>, <lidl novahub.com>, <lidl opusnet.com>, <lidl palace.com>, <lidl prime.com>, <lidl shop adorn.com>, <lidl shop crafter.com>, <lidl shop dynamo.com>, <lidl shop dynasty.com>, <lidl shopeclipse.com>, <lidl shopelevate.com>, <lidl shopenigma.com>, <lidl shopeonx.com>, <lidl shopevolvex.com>, <lidl shop genesis.com>, <lidl shop gizmos.com>, <lidl shop harmony.com>, <lidl shop havenx.com>, <lidl shop ignitex.com>, <lidl shop nook.com>, <lidl shop prime.com>, <lidl shop vivid.com>, <lidl smasterpro.com>, <lidl sunleashed.com>, <lidl titancraft.com>, <lidl vivid.com>, <lidl whisperer.com>, <lidl whizpro.com>, <lidl zenithpro.com>, <lidl zenithx.com>, <mighty lidl kit.com>, <precision lidl hub.com>, <tech gizmolids.com>, and <turbolidl craft.com>, is Chinese. 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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including:

- (i) the fact that the Complainant is a company located in Germany and has no familiarity with Chinese;
- (ii) to proceed in Chinese, the Complainant would have to retain specialized translation services at a disproportionately high cost which would impose a burden on the Complainant;
- (iii) the Respondents have chosen to register the disputed domain names including English terms, which strongly suggests that the Respondents are familiar with English; and
- (iv) the active disputed domain names have each been resolved to websites in Latin characters (the Panel however notes that some of the active websites are in German), which suggests that the Respondents are familiar with English.

The Respondents did not comment on the Complainant's request for the language of the proceeding to be English but the Respondent Private Whois sent an email communication to the Center in English.

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.

B. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that:

- (i) The disputed domain names were registered between September 3, 2023 and October 6, 2023, many of them on the same day;
- (ii) All 42 of the disputed domain names contain the Trade Mark in its entirety; and 17 contain the term "lidlshop";
- (iii) 40 of the disputed domain names have been registered with the same Registrar and same registrant while two of the disputed domain names have been registered under the privacy service;
- (iv) Seven of the disputed domain names have been resolved to fake LIDL websites including the disputed domain name <lidlly.com>; and
- (v) There are a large number of similarities in respect of the words and letters included in each of the disputed domain names.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

6.2 Substantive Issues

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 trade mark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

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 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. To the contrary, 34 of the disputed domain names have not been used, and the disputed domain name <mightyidlkit.com> was previously redirected to a third party website, apparently offering for sale third party branded tools and power tools, and is now inactive. The use of these disputed domain names cannot be considered as bona fide offering of goods or services, or legitimate noncommercial or fair use.

As regards the remaining seven disputed domain names which resolved to fake LIDL websites, panels have held that the use of a domain name for illegal activity - here, impersonation/passing off - or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Panels have held that the use of a domain name for illegal activity - here, in the case of seven of the disputed domain names, impersonation/passing off - or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of these disputed domain names constitutes bad faith under the Policy.

The disputed domain name <mightyidlkit.com> was previously redirected to a third party website, apparently offering for sale third party branded tools and power tools. The Panel finds the registration and use of this disputed domain name constitutes bad faith under paragraph 4(b)(iv) of the Policy.

In respect of 34 of the disputed domain names that have not been used, or the active disputed domain names are no longer being used, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s Trade Mark, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of 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 names, <lidlador.com>, <lidlboltz.com>, <lidl-coupons.com>, <lidleonx.com>, <lidlfusion.com>, <lidlfusionx.com>, <lidlil.com>, <lidlly.com>, <lidlnook.com>, <lidlnoyahub.com>, <lidlopusnet.com>, <lidlpalace.com>, <lidlprime.com>, <lidlshopadorn.com>, <lidlshopcrafter.com>, <lidlshopdynamo.com>, <lidlshopdynasty.com>, <lidlshopeclipse.com>, <lidlshopelevate.com>, <lidlshopenigma.com>, <lidlshopeonx.com>, <lidlshopevolvex.com>, <lidlshopgenesis.com>, <lidlshopgizmos.com>, <lidlshopharmony.com>, <lidlshophavenx.com>, <lidlshopignitex.com>, <lidlshopnook.com>, <lidlshopprime.com>, <lidlshopvivid.com>, <lidlsmasterpro.com>, <lidsunleashed.com>, <lidl titan craft.com>, <lidl vivid.com>, <lidlwhisperer.com>, <lidlwhizpro.com>, <lidlzenithpro.com>, <lidlzenithx.com>, <mightylidlkit.com>, <precisionlidlhub.com>, <techgizmolids.com>, and <turbolidlcraft.com>, be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Date: February 28, 2024