

ADMINISTRATIVE PANEL DECISION

Lidl Stiftung & Co. KG v. Ruslan Blinov and 彭晓绿 (Paul worth)
Case No. D2024-0132

1. The Parties

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

The Respondents are Ruslan Blinov, Ukraine; and 彭晓绿 (Paul worth), United States of America.

2. The Domain Names and Registrars

The disputed domain name <lidl-salestore.com> is registered with NameCheap, Inc.

The disputed domain name <lidsalestore.com> is registered with West263 International Limited.

(NameCheap, Inc. and West263 International Limited are herein after referred to as the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <lidl-salestore.com>. On January 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <lidl-salestore.com> which differed from the named Respondent (Redacted/Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 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 the first amendment to the Complaint in English on January 24, 2024, including the request that the disputed domain name <lidsalestore.com> be added to the proceeding.

On January 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <lidsalestore.com>. On February 1, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <lidsalestore.com> which differed from the named Respondent and contact information in the Complaint and the first amendment to the Complaint.

The Center sent an email communication to the Complainant on February 2, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, 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. The Complainant filed the second amendment to the Complaint in English on February 7, 2024.

On February 2, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name <lidl.salestore.com> is Chinese. On February 5, 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 amendments 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 proceedings commenced on February 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 29, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 1, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 6, 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 is part of the LIDL-Group, a global discount supermarket chain headquartered in Germany. The LIDL-Group operates more than 10,000 stores with over 300,000 employees. Currently, its stores can be found in 31 countries. The Complainant also offers various additional services, e.g., a mobile phone network or travel services.

The Complainant has various national and international trademark registrations for its LIDL marks around the word, including the following:

- European Union Trade Mark No. 018192764 for LIDL, registered on December 8, 2020;
- European Union Trade Mark No. 018193008 for LIDL, registered on November 27, 2020; and
- International Trademark Registration No. 1541701 for LIDL, registered on January 30, 2020, designating, among other jurisdictions, Ukraine.

The Complainant also owns a domain name portfolio, including various domain names which incorporate these trademarks, including <lidl.de>, <lidl.com>, and <lidl.es>.

The disputed domain name <lidl-salestore.com> was registered on January 2, 2024, and is therefore of a later date than the registered trademarks of the Complainant. The Complainant submits evidence that the disputed domain name <lidl-salestore.com> does not resolve to an active website, but only to a page that displays what appears to be an index with one folder to which access is not granted to Internet users, since when clicking on the folder icon the following message is shown: "403 Forbidden. Access to this resource on the server is denied!".

The other disputed domain name <lidl.salestore.com> is not discussed here for the reasons indicated under section 6.1 of this Decision.

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 confusingly similar to its registered trademarks as they incorporate the well-known LIDL mark entirely. Furthermore, the Complainant contends that the Respondents have no rights or legitimate interests in the disputed domain names particularly since they are not commonly known by the disputed domain names and have not used the disputed domain names in connection with a bona fide offering of goods or services, nor of any serious preparations for that purpose. Finally, the Complainant essentially contends that the Respondents have knowingly targeted its well-known marks by registering the disputed domain names and that the Respondents are currently holding the disputed domain names passively in bad faith.

B. Respondents

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

6. Discussion and Findings

6.1 First Preliminary Issue: Consolidation - Multiple Respondents

The second amendment to the Complaint were 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 Respondents 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

In the present case, the Complainant essentially argues that the disputed domain names are under common control based on the following reasons: the fact that disputed domain names are nearly identical/highly similar, and the fact that disputed domain names were registered within two weeks from each other, and the disputed domain name <lidsalestore.com> was registered only four days after filing this Complaint, i.e., January 16, 2024.

The Panel finds that these factors, considered alone or in combination, do not sufficiently support the Complainant's claim that there is common control being exercised by the Respondents over the disputed domain names. The Panel particularly notes the following facts: the websites to which the disputed domain names directed looked entirely different and were used for different purposes because the disputed domain name <lidl-salestore.com> has resolved to an inactive website while the disputed domain name <lidsalestore.com> has resolved to a website displaying the Complainant's trademark and purportedly offering for sale various products; there are no similarities between the Respondents' identities, addresses, and contact information to render a clear link; the disputed domain names were registered on different dates and with different Registrars and the language of the Registration Agreements for the disputed domain names is also different. Based on the above elements, the Panel finds that the Complainant did not

demonstrate that the disputed domain names are under common control, or that there is a clear affiliation between the Respondents.

Accordingly, having regard to the above circumstances, the Panel hereby rejects the Complainant's request for consolidation. The Panel, however, accepts the Complaint filed in relation to the initial disputed domain name <lidl-salestore.com>, and will confine its Decision accordingly to that disputed domain name only.

The Panel notes that the Complainant remains at liberty to file a new complaint in respect of the other disputed domain name and that this Decision is without prejudice to such potential future complaint. Further references below to the Respondent and the disputed domain name in this Decision are intended to refer solely to the Respondent, namely Ruslan Blinov, and the disputed domain name, namely <lidl-salestore.com>.

6.2 Second Preliminary Issue: Procedural Consideration - the Respondent's location

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

The location of the Respondent as disclosed by the Registrar appears to be in Ukraine, which is subject to an international conflict on the date of this Decision that may impact case notification. It is therefore appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue. The Panel notes that the record shows that the Written Notice could not be delivered to the address disclosed by the Registrar in its verification.

However, it appears that the Notification of Complaint's emails were delivered to the Respondent's email address, as provided by the Registrar. Therefore, there is no evidence that the case notification was not successfully received by the Respondent. In addition, the Panel also notes that the disputed domain name was recently registered on January 2, 2024.

The Panel concludes that the Respondent who is allegedly located in Ukraine has been given a fair opportunity to present his case, and so that the administrative proceeding takes place with due expedition, the Panel will proceed to a Decision accordingly.

6.3 Findings on the Merits

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark 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 name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term here, "-salestore", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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 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.

Furthermore, having regard to the facts of this case and the Complainant’s evidence, the Panel notes that the disputed domain name does not resolve to an active website, but only to a page that displays what appears to be an index with a folder, but to which access is not granted, and that the Respondent has therefore not used the disputed domain name in connection with a bona fide offering of goods or services, nor any credible preparations for that purpose. In this regard, the Panel finds that holding a domain name passively, without making any good faith use of it, does not confer any rights or legitimate interests in the disputed domain name on the Respondent in the circumstances of this case (see in this regard earlier UDRP decisions such as *Bollere SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

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.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant’s well-known, intensely used and distinctive trademarks for LIDL. The Panel refers to prior decisions under the Policy which have recognized the well-known nature of these trademarks, see *Lidl Stiftung & Co. KG v. Name Redacted*, WIPO Case No. [D2020-1441](#). The Panel deducts from this fact that by registering the disputed domain name, the Respondent deliberately and consciously targeted the Complainant’s prior well-known trademarks for LIDL. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Furthermore, the Panel also notes that the Complainant’s trademarks were registered several years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use in bad faith, panels have found that the non-use of a domain name (including an inactive, 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 that the Respondent’s non-use of the disputed domain name 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 and very strong reputation of the Complainant’s trademark, the composition of the disputed domain name, including the Complainant’s well-known mark, combined with the descriptive terms “sale” and “store” which suggest to Internet users that the disputed domain name could direct to a store offering sales for products under the Complainant’s marks, and the unlikelihood of any good faith use of the disputed domain name by the Respondent, and finds that in the circumstances of this case the passive holding of the disputed domain name 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 name <lidl-salestore.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 18, 2024