

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG and Aldi Stores Limited v. Dynadot
Case No. D2024-0896

1. The Parties

The Complainant is Aldi GmbH & Co. KG, Germany and Aldi Stores Limited, United Kingdom (“UK”), represented by Freeths LLP, UK.

The Respondent is Dynadot, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <aldi-oil.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 29, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 29, 2024, 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 (Registrant of ALDI-OIL.COM) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 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 on March 11, 2024.

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, and the proceedings commenced on March 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 2, 2024.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on April 15, 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 Complainants and their connected companies are international leaders in grocery retailing. They have more than 5,000 stores across the world and are also active in Australia, Austria, Belgium, Denmark, France, Germany, Ireland, Luxembourg, Netherlands (Kingdom of the), Poland, Portugal, Slovenia, Spain, Switzerland, and the United States.

The Complainant Aldi Stores Limited was incorporated in 1988, its company name being Aldi Limited from 1988 to 1989, and in 1989 the company name was changed to its current name of Aldi Stores Limited. It is a known supermarket under common control with the Complainant Aldi GmbH, acting as a licensee under the ALDI marks.

The Complainant Aldi GmbH & Co. KG owns, and the Complainant Aldi Stores Limited is the exclusive licensee in the UK of, various registered trade marks which comprise and/or include the sign ALDI.

Among the ALDI trademarks owned by the Complainant Aldi GmbH & Co. KG, are the followings:

- the UK trademark No. UK00002250300 for ALDI, registered on March 30, 2001, for goods and services in classes 01, 03, 05, 06, 11, 16, 21, 24, 25, 29, 30, 31, 32, 33, 34, 35;
- the UK trademark No. UK00903639408 for ALDI, registered on April 19, 2005, for services in classes 36, 39, 41, 43;
- the European Union trademark No. 002071728 for ALDI, registered on April 14, 2005, for goods and services in classes 03, 04, 09, 16, 24, 25, 29, 30, 31, 32, 33, 34;
- the European Union trademark No. 003639408 for ALDI, registered on April 19, 2005, for services in classes 36, 39, 41, 43.

Moreover, the Complainant Aldi Stores Limited owns the domain name containing the trademark ALDI, <aldi.co.uk>, registered since September 29, 1996, which is used as its main website.

The disputed domain name <aldi-oil.com> was registered on June 23, 2023. According to the evidence filed by the Complainants, at the time of filing the Complaint, the disputed domain name resolved to a website which featured various sponsored links.

5. Parties' Contentions

A. Complainant

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that:

(i) the disputed domain name is confusingly similar to the Complainants' ALDI mark as it consists of the Complainants' identical mark ALDI;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name for a number of reasons, among which that, (1) the Complainants' rights in the ALDI trademarks and the ALDI name predate the registration of the disputed domain name, (2) the Respondent is not a licensee of the

Complainants, nor has the Complainants' authorization to use the ALDI trademarks, (3) the Respondent has not used the disputed domain name or any name corresponding to the disputed domain name in connection with a bona fide offering of goods or services, (4) the Respondent has not been commonly known by the disputed domain name, (5) the Respondent has not made any legitimate non-commercial or fair use of the disputed domain name;

(iii) the disputed domain name was registered and is being used in bad faith for a number of reasons, among which that, (1) the disputed domain name makes unauthorised use of a sign confusingly similar to the Complainants' ALDI trademarks, (2) internet users will be confused into believing that the disputed domain name has some form of association with the Complainants, (3) the disputed domain name has been (or is planning to be) intentionally used to attract internet users, for commercial gain, to any website hosted at the the disputed domain name by creating a likelihood of confusion with the ALDI trademarks, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website of the Respondent, (4) the disputed domain name is used to host a website which features various sponsored links. Given the similarity between the ALDI trademarks and the disputed domain name, internet users accessing this website are likely to believe that its content is endorsed or otherwise authorised by the Complainants, when this is not the case, (5) the distinctive character and reputation of the ALDI trademarks are harmed by association with the disputed domain name, (6) there is a possibility that the disputed domain name was registered in order that the Respondent might offer it for sale to either the Complainants (or their competitors) at a price higher than the cost of registration.

B. Respondent

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

6. Discussion and Findings

In order for the Complainants to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

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

In case all three elements above have been fulfilled, the Panel is able to grant the remedy requested by the Complainants. Thus, the Panel will deal with each of the requirements in turn.

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 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 Complainants have 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 Panel finds that the entirety of the ALDI mark is reproduced within the disputed domain name with the mere addition of a hyphen and of the term "oil", which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainants' trademarks ALDI. 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 terms, in this case “oil”, 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.

In what concerns the addition of the generic Top-Level Domain (“gTLD”) “.com” in relation to the disputed domain name, such is viewed as a standard registration requirement, and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

Based on the available record, 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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.

Thus, based on the available evidence, the Respondent does not appear to be commonly known by ALDI, and is not a licensee of either of the Complainants, nor has the Complainants’ authorization to use the ALDI mark.

Moreover, at the time of filing the Complaint, the disputed domain name resolved to a website which featured various sponsored links.

Furthermore, the disputed domain name is similar to the Complainants’ ALDI prior mark as it incorporates in its entirety the Complainants’ ALDI mark with the addition of the descriptive term “oil”, might lead to confusion for Internet users as to the disputed domain name’s affiliation with the Complainants.

All the above does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

Based on the available record, 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 Complainants' rights in the ALDI marks predate the registration date of the disputed domain name.

In light of the above as well as of the high distinctive character of the ALDI mark, the Panel finds that it is not conceivable that the Respondent registered the disputed domain name without knowledge of the Complainants' ALDI marks, which supports a finding of bad faith registration. [WIPO Overview 3.0](#), section 3.2.2.

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. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that, at the time of filing the Complaint, the disputed domain name resolved to a website which featured various sponsored links. The disputed domain name incorporates in its entirety the Complainants' highly distinctive ALDI mark with the addition of the descriptive term "oil", leading thus to confusion and misleading Internet users into believing that the website to which the disputed domain name resolves and its content is endorsed or otherwise authorised by the Complainants.

Based on the available record, the Panel finds that the Complainants have 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 <aldi-oil.com> be transferred to the Complainant Aldi Stores Limited.

/Delia-Mihaela Belciu/

Delia-Mihaela Belciu

Sole Panelist

Date: April 29, 2024