

## **ADMINISTRATIVE PANEL DECISION**

Alvean Sugar Intermediação e Agenciamento Ltda. and Alvean Sugar S.L.,  
Bilbao, Lancy (Geneva) Branch v. Mani Zelles  
Case No. D2024-1462

### **1. The Parties**

The Complainants are Alvean Sugar Intermediação e Agenciamento Ltda., Brazil, and Alvean Sugar S.L., Bilbao, Lancy (Geneva) Branch, Switzerland, represented by Aoki e Yamashita Advogados, Brazil.

The Respondent is Mani Zelles, United States of America ("US").

### **2. The Domain Name and Registrar**

The disputed domain name <alveanglobal.com> is registered with Wix.com Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 6, 2024. On April 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 (Wix.com Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainants on April 15, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on April 20, 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 April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 13, 2024.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on May 20, 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 are part of an international group of companies that are controlled by the parent company Copersucar S.A. ("Copersucar"), one of the global leaders in the trade of sugar and ethanol. The Complainants were founded by Copersucar in 2014, specializing in originating, marketing and trading raw and white sugar.

The Complainants have offices in seven countries and operations in every continent and originate sugar from the world's leading sugar producing countries and regions, including Brazil, Thailand, India, Australia and Central America.

The Complainant Alvean Sugar Intermediação e Agenciamento Ltda. is the owner of the trademark ALVEAN in more than 45 countries, including the European Union Intellectual Property Office Reg. No. 13579404 for classes 35 and 36, registered on May 20, 2015; US Patent and Trademark Office Reg. No. 4894379, for classes 35 and 36, registered on February 2, 2016; and Swiss Federal Institute of Intellectual Property Reg. No. 671563, for classes 35 and 36, registered on April 7, 2015. On the other hand, Alvean Sugar S.L., Bilbao, Lancy (Geneva) Branch, is the owner of the domain name <alvean.com> (as evidenced by the Complainants in Annex 12 to the Complaint).

Consequently, the Complainants claim to have a common legal interest in the mark ALVEAN that is contained in the disputed domain name, which was registered on January 12, 2024, and currently resolves to an inactive website. However, the disputed domain name previously resolved to a website that mirrored the Complainants' official website and was used to send fraudulent email communications (as evidenced by the Complainants in Annex 13 to the Complaint).

#### **5. Parties' Contentions**

##### **A. Complainants**

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

Notably, the Complainants claim that the disputed domain name is confusingly similar to its trademark ALVEAN on which the Complainants have prior rights.

The Complainants contend that the Respondent has no rights or legitimate interest in respect of the disputed domain name, nor is the Respondent related in any way to the Complainants. Neither license nor authorization has been granted to the Respondent to make any use of the Complainants' trademark ALVEAN or apply for registration of the disputed domain name.

More specifically, the Complainants allege that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name in good faith except to create a likelihood of confusion with the Complainants' trademark. In fact, the Complainants claim that the Respondent has selected the disputed domain name only to impersonate the Complainant's employees and to send fraudulent emails to their clients.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainants must prove each of the following, namely that:

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

### **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 Complainants' 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.

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 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, "global", 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.

The Complainants have claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the ALVEAN trademark nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Even more, it does not seem that the Respondent made nor is making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent initially employed the disputed domain name for facilitating phishing attacks, as evidenced by the Complainants in Annexes 13 and 14 to the Complaint. The Respondent impersonated one of the Complainants' CEO, sending fraudulent emails to the Complainants' clients.

Further, the disputed domain name previously resolved to a website that mirrored the Complainants' official website. As evidenced in Annex 15 to the Complaint, Complainants have reported the abuse of the disputed domain name to the Registrar and the Registrar proceeded to disable the website at the disputed domain name.

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 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.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, 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.

In such connection, the Complainants have submitted evidence to support that the trademark ALVEAN is widely known and was registered and used many years before the Respondent registered the disputed domain name. It is clear that the Respondent registered the disputed domain name adding the dictionary term "global", with the intention to generate confusion among Internet users as evidence by the fraudulent use of the disputed domain name and benefit from the Complainants' reputation.

Also, the Respondent has utilized the disputed domain name to execute phishing attacks, aiming to capitalize on the potential confusion of the Complainants' clients when receiving fraudulent emails without realizing the origin of the communications. Panels have held that the use of a domain name for illegal activity here, claimed phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <alveanglobal.com> be transferred to the Complainant Alvean Sugar S.L., Bilbao, Lancy (Geneva) Branch.

*/Gustavo Patricio Giay/*

**Gustavo Patricio Giay**

Sole Panelist

Date: June 3, 2024.