

ADMINISTRATIVE PANEL DECISION

Aldo Group International GmbH v. Goransson Gustavsson
Case No. D2024-1682

1. The Parties

The Complainant is Aldo Group International GmbH, Switzerland, represented by Markmonitor, United States of America.

The Respondent is Goransson Gustavsson, Germany.

2. The Domain Name and Registrar

The disputed domain name <aldomexico.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 19, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 22, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on May 27, 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 a Swiss company operating in the manufacturing and commercialization of ALDO-branded apparel goods, namely footwear, headgear, bags, and other fashion accessories, through more than 3000 points of sale around the world in over 100 countries serving almost 200 million customers and visitors to its stores each year.

The Complainant is the owner of several trademarks for ALDO including:

- International Trademark Registration ALDO No. 1029684, registered on December 8, 2009;
- European Union Trademark Registration ALDO No. 009196742, registered on February 10, 2015;
- Mexican Trademark Registration ALDO No. 490318, registered on April 28, 1995.

The Complainant is also the owner of several domain names including the trademark ALDO, such as the domain name <aldoshoes.com> and <aldogroup.com>, registered since 1996.

The disputed domain name was registered on April 10, 2021, and it currently resolves to an inactive website, even though the Complainant has provided evidence showing that the disputed domain name previously resolved to an active website offering ALDO-branded products at a discount and using the ALDO logo at top of the page without any disclaimer of the lack of association with the Complainant.

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 name.

The Complainant affirms that the disputed domain name is identical or confusingly similar to the Complainant's ALDO trademark, as it reproduces it in its entirety, with the mere addition of the geographic term "mexico".

The Complainant submits that the Respondent is neither a licensee of the Complainant nor affiliated with the Complainant in any way. The Complainant says that it has not authorized the Respondent to make any use of its ALDO trademark. Lastly, the Complainant says that there is no evidence to suggest that the Respondent is commonly known by the disputed domain name, as intended under paragraph 4(c)(ii) of the Policy.

Furthermore, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith, as the Respondent's use of the Complainant's trademark and product images on the website previously connected to the disputed domain name shows the Respondent's awareness of the trademark at the time of registration and the latter's intent to mislead Internet users into believing that the website was somehow connected to or authorized by the Complainant.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

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.

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. Indeed, the addition of the geographical term "mexico" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy, also considering the Complainant's trademark rights in Mexico. [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, the Panel notes that disputed domain name resolved to a website purportedly selling ALDO-branded goods and displaying the ALDO trademark at the top of the homepage without any disclaimer of the lack of association with the Complainant. Such use cannot confer any rights and legitimate interests on the 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 the present case, the Panel notes that the registration of the ALDO trademark predates the disputed domain name and therefore, the Respondent clearly had the ALDO trademark in mind while registering the disputed domain name, as the latter previously resolved to a website purportedly selling ALDO-branded goods and bearing the ALDO trademark at the top of the homepage without any disclaimer of the lack of association with the Complainant.

There is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name incorporating the distinctive ALDO trademark with the addition of the geographical term “mexico” unless there was an intention to create a likelihood of confusion between the disputed domain name and the ALDO trademark from which the Respondent would likely benefit. [WIPO Overview 3.0](#), section 3.1.4 and paragraph 4(b)(iv) of the Policy.

In this regard, noting the Complainant’s reputation in the ALDO trademark, the provision of the false or incomplete contact details by the Respondent when registering the disputed domain name (the courier service was not able to deliver the Written Notice due to bad address), and the Respondent’s failure to file a response, the Panel finds that the current non-use of the disputed domain name does not prevent a finding of bad faith use. [WIPO Overview 3.0](#), section 3.3.

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 <aldomexico.com> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: June 6, 2024