

ADMINISTRATIVE PANEL DECISION

Alimak Group Management AB v. Moreno Elgin Niles
Case No. D2024-1947

1. The Parties

The Complainant is Alimak Group Management AB, Sweden, represented by Abion AB, Sweden.

The Respondent is Moreno Elgin Niles, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <alimakgruop.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 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 May 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 5, 2024.

The Center appointed Masato Dogauchi as the sole panelist in this matter on June 12, 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

Whereas the Respondent has not submitted any response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a limited liability company incorporated in 1948 in Sweden, providing vertical access and working at height solutions with twenty-four production and assembly facilities in fifteen countries and approximately 3,000 employees around the world.

The Complainant owns several AKLIMAK trademarks, including:

- Canadian Registration No TMA153673, AKLIMAK, registered on October 13, 1967;
- Australian Registration No 262493, AKLIMAK, registered on October 6, 1972;
- Swiss Registration No P-403605, AKLIMAK, registered on July 20, 1993.

Furthermore, the Complainant has a corresponding domain name portfolio which includes inter alia <alimakgroup.com>, being the main corporate website of the Complainant.

The disputed domain name was registered on April 12, 2024. At the time of filing, the disputed domain name resolved to a page which features "403 Forbidden" and "Access to this resource on the server is denied!" At the time of decision, the disputed domain name is inactive.

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.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been 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 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 Panel finds that the Complainant has the right in the AKLIMAK trademark. The disputed domain name includes the Complainant's AKLIMAK trademark as a whole, except for the first letter "k" which is omitted in the disputed domain name. Such inclusion is by itself enough to have the disputed domain name be confusingly similar to the Complainant's AKLIMAK trademark. [WIPO Overview 3.0](#), section 1.7 and 1.9.

In such case, the addition of other terms within the disputed domain name would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

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.

Therefore, the Panel finds on the available record that the Complainant has established an un rebutted prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

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, considering that the Complainant is one of the worldwide famous companies in the field of its business, it is highly unlikely that the Respondent would not have known of the Complainant's right in the AKLIMAK trademark at the time of registration of the disputed domain name. Nothing in the disputed domain name bears any reasonable relevance to the Respondent. Also, in consideration of the uniqueness of the AKLIMAK trademark, there can be found no reasonable possibility of fortuity in the Respondent's

innocent registration of the disputed domain name. It is found, accordingly, that the Respondent registered the disputed domain name in bad faith.

In addition, the disputed domain name includes the term “gruop” just after the Complainant’s trademark. The term “group” is considered to be a typo of “group”. Since the name of the Complainant is “Alimak Group Management AB” and the Complainant’s main corporate domain name is <alimakgroup.com>, the Panel finds that this typo was selected by the Respondent intentionally and this suggests the bad faith registration of the disputed domain name. The fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith.

The Respondent did not reply to the Complaint in this proceeding, and the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

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, <alimakgruop.com>, be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: June 18, 2024