

## **ADMINISTRATIVE PANEL DECISION**

**AZKOYEN, S.A. v. Ting Lin, Ting Lin PLC., Cristiano Silva dos Santos**  
Case No. D2024-2072

### **1. The Parties**

The Complainant is AZKOYEN, S.A., Spain, represented by J&A Garrigues, S.L.P., Spain.

The Respondents are Ting Lin, Ting Lin PLC., Cambodia, Cristiano Silva dos Santos, Brazil.

### **2. The Disputed Domain Names and Registrars**

The disputed domain name <azkoyenvendingl.com> is registered with Alibaba.com Singapore E-Commerce Private Limited.

The disputed domain name <azkoyenvendingl.cloud> is registered with Hostinger Operations, UAB (Alibaba.com Singapore E-Commerce Private Limited and Hostinger Operations, UAB are collectively referred to as the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (REGISTRATION PRIVATE and Privacy Protect, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 21, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on May 24, 2024.

The Center verified that the Complaint together with the amended 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”).

The Respondent, Cristiano Silva dos Santos, sent an email communication to the Center on May 25, 2024. On May 27, 2024, the Center sent the Possible Settlement email to the Parties. Following the Complainant’s suspension request on June 3, 2024, the Center issued the Notification of Suspension (before commencement) for the Parties’ settlement talks on the disputed domain name <azkoyenvendingl.cloud> on the same day. On July 10, 2024, the suspension of the proceeding was extended for another 30 days as per the Complainant’s request. On July 17, 2024, the Complainant sent an email to the Center, requesting the reinstatement of the proceeding. Therefore, the proceeding was reinstated as of July 23, 2024. The Center sent the email regarding the consolidation of multiple Respondents on July 30, 2024.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on July 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 19, 2024. On August 21, 2024, the Center proceeded to the panel appointment.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 22, 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 Spanish multinational company specialized in the design, manufacture and marketing of advance technological solutions for the vending and HORECA/OCS (hotels, restaurants and cafes/office coffee services) markets, means of payment and security. The Complainant was founded in 1945 and currently trades on the Madrid and Bilbao Stock Exchange, as well as on the SIBE (Sistema de Interconexion Bursatil Espanol or Stock Exchange Interconnection System) and is present in more than 60 countries.

The Complainant is especially renowned for the design, manufacture, and marketing of coffee and vending systems through the Azkoyen Vending System unit.

The Complainant owns worldwide trademark registrations for or including AZKOYEN, such as the following:

- the European Union trademark registration number 018953619 for AZKOYEN (word), filed on November 21, 2023, and registered on April 16, 2024, covering goods in International classes 7, 9, and 11; and
- the United States of America trademark registration number 1594991 for AZKOYEN (mark with device), filed on April 19, 1989, and registered on May 8, 1990, covering goods in International class 9.

The Complainant owns and operates websites at the domain names <azkoyen.com>, <azkoyenvending.es>, and <azkoyenvending.com>.

The disputed domain names were registered as follows:

- <azkoyenvendingl.com> on August 16, 2023; and
- <azkoyenvendingl.cloud> on April 26, 2024.

According to Annexes 18 to 22 to the Complaint, the disputed domain names were used to perpetrate a scam in Brazil, namely on the websites under the disputed domain names, and via emails associated with the disputed domain names, the Internet users were offered a sort of investment in AZKOYEN coffee machines with a high return in a short time. The websites under the disputed domain names displayed the Complainant's AZKOYEN trademark, as well as pictures of genuine products of the Complainant. Furthermore, the scam was carried also under several social media profiles associated with the disputed domain names.

At the time when the Panel visited the websites under the disputed domain names, they both resolved to error pages.

## **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 AZKOYEN trademarks and domain names; the Respondents should be considered as having no rights or legitimate interests in the disputed domain names; the Respondents registered and are using the disputed domain names in bad faith to impersonate the AZKOYEN's look and feel with the intention to mislead the Internet users and offering an investment that resulted in a scam in Brazil, thus damaging the Complainant's reputation; the Complainant posted press releases on its main website, and also created a new website under <azkoyenvending.com.br>, informing the Internet users on the Respondents' fraud.

### **B. Respondent**

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

On May 25, 2024 the Respondent, Cristiano Silva dos Santos, sent an email communication to the Center stating basically that he does not want a dispute and wishes to transfer the disputed domain name <azkoyenvendingl.cloud> to the Complainant.

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondents have no rights or legitimate interests in the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### **A. Consolidation: Multiple Respondents**

The amended Complaint was 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 disputed domain names registrants 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 3.0](#), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names (i) were created in a similar manner, incorporating the Complainant's trademark, AZKOYEN, followed by the additional term "vending!"; (ii) according to evidence provided in the Complaint, they were used in the same manner, namely the landing page invited the Internet user to register and, once inside, several "investments" related to purported AZKOYEN machinery were offered; (iii) have a parallel WhatsApp group where said offers were presented; (iv) according to the Complaint and unrefuted by the Respondents, the disputed domain name <azkoyenvendingl.cloud> has been registered when the disputed domain name <azkoyenvendingl.com> became inaccessible and continued to carry out the same activities in Brazil; (v) the Respondents have not objected to the consolidation claims made by the Complainant despite the email communication and thus opportunity to do so from the Respondent, Cristiano Silva dos Santos; and (vi) the Respondent, Ting Lin, Ting Lin PLC, appears to have furnished false or incomplete contact information in view of the courier's inability to deliver the Center's written notice of Complaint to the "bad address" disclosed by the Registrar for the Respondent, suggesting the potential use of aliases or fictitious names by the underlying Respondents.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

## **B. 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 trademarks and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the mark AZKOYEN is easily recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of another term, here "vending!", 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 names 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.

## **C. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

In the Respondent's email communication, he does not claim any rights or legitimate interests in the disputed domain names, to the contrary his short communication can be considered as an acknowledgement of the Complainant's rights in AZKOYEN trademark, correlated with the Respondent's lack of rights or legitimate interests in the disputed domain names.

According to the evidence provided as Annexes 18 to 27 to the Complaint, email addresses associated with the disputed domain names were used for scamming purposes. UDRP panels have categorically held that the use of a domain name for illegal activity (such as phishing, impersonation/passing off other types of fraud) 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.

#### **D. 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 disputed domain names were registered in bad faith, with knowledge of the Complainant, its trademark, and business particularly because the disputed domain names incorporate the Complainant's trademark, trade name, and reproduce the Complainant's domain names <azkoyenvending.es> and <azkoyenvending.com> with a slight alteration, and the Complainant's trademark predates the registration of the disputed domain names with more than 30 years.

The Respondent used the disputed domain names to send email communications for illegal activity and other fraudulent purposes in an attempt to obtain financial gain from third parties, impersonating the Complainant. This is a classic phishing scheme and establishes bad faith use and registration. [WIPO Overview 3.0](#), section 3.4.

The Respondent has not participated in the present proceeding to put forward any argument in its favor, and, although it filed a communication stating it wishes to delete/transfer the disputed domain name <azkoyenvendingl.cloud> to the Complainant, it did not react to Complainant's invitation to conclude the proceedings in an amicable manner, during the suspension period granted in this proceeding. Such facts are further evidence of bad faith. Furthermore, as explained above, the Respondent also appears to have furnished false or incomplete contact information, likely in an attempt to frustrate the efficiency of proceedings such as this.

Lastly, it should also be noted that the absence of content in the disputed domain names does not prevent a finding of bad faith under the Policy considering the circumstances of the case. [WIPO Overview 3.0](#), section 3.3.

The Panel finds the third element of the Policy has been established.

## **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 names <azkoyenvendingl.com> and <azkoyenvendingl.cloud>, be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: September 5, 2024