

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG and Aldi Stores Limited v. Manistee Mrs. NIL
Case No. D2024-2545

1. The Parties

The Complainants are Aldi GmbH & Co. KG, Germany and Aldi Stores Limited, United Kingdom, represented by Freeths LLP, United Kingdom.

The Respondent is Manistee Mrs. NIL, United States of America.

2. The Domain Name and Registrar

The disputed domain name <aldi-partnership.shop> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 21, 2024. On June 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 24, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 24, 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 July 4, 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 July 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 31, 2024.

The Center appointed Dr. Beatrice Onica Jarka as the sole panelist in this matter on August 6, 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. 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 United Kingdom of, various registered trademarks which comprise and/or include the name ALDI.

The trademarks cover and have been used in respect of, among other things, a wide range of retail services.

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.

The Respondent is Manistee Mrs., NIL, United States of America, who registered the disputed domain name on April 15, 2024.

The disputed domain name resolves to a website which features use of the Aldi name and logo, and an 'about' page describing the Complainants' corporate history.

5. Parties' Contentions

A. Complainants

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:

- The disputed domain name includes the word "ALDI" which is the subject of the Complainants' trademarks and rights in passing off.

- Significantly, the disputed domain name incorporates the trademarked ALDI together with the word “partnership” which enhances confusion as it suggests that the disputed domain name hosts a webpage relating to goods or services which are specifically sold by the Complainants.
- Additionally, an inference is drawn that any website hosted at the disputed domain name will be a website that is operated by or with the consent of the Complainants. In consequence, most individuals navigating to the disputed domain name will be expecting to reach a website operated by, or at the least associated with, the Complainants.
- On an overall comparison the disputed domain name is confusingly similar to the Complainants’ trademarks.
- The trademarks have an enhanced distinctive character and reputation in the United Kingdom, European Union and beyond as a result of the substantial and sustained use made of them by the Complainants and their connected companies. In addition, the Complainants also benefit from rights in passing off in the United Kingdom as a consequence of the substantial goodwill they have generated and own in the ALDI name.
- The disputed domain name is so similar to the “ALDI” sign in which the Complainants have such significant goodwill, that the control or use of the disputed domain name by anyone other than the Complainants will amount to a misrepresentation which is likely to deceive the public into believing that the disputed domain name is under the control of, or otherwise authorized by, the Complainants.
- The Respondent has no rights in the trademarks or any connection or association with the Complainants whatsoever.
- The Complainants’ rights in the trademarks and the ALDI sign predate the Respondent’s registration of the disputed domain name, which was registered on April 15, 2024.
- The Complainants’ have not licensed or otherwise authorized the Respondent to use the ALDI name or trademark.
- The Respondent appears to not have (i) used the domain name or any name corresponding to the domain name in connection with a bona fide offering of goods or services, (ii) been commonly known by the domain name or (iii) made any legitimate non-commercial or fair use of the domain name as described in the Policy.
- The disputed domain name makes unauthorized use of a sign confusingly similar to the Complainants’ registered trademark ALDI, in direct contravention of the Complainants’ trademark rights and rights in passing off.
- The registration of the disputed domain name therefore took unfair advantage of the disputed domain name to be in bad faith.
- 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 disputed domain name by creating a likelihood of confusion with the ALDI trademark, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website of the Respondent.
- The disputed domain name is currently used to host a website which features use of the Aldi name and logo, and an 'about' page describing the Complainants' corporate history.
- Given the similarity between the ALDI trademarks and the disputed domain name, Internet users accessing the website are likely to believe that its content is endorsed or otherwise authorized by the Complainants.
- The distinctive character and reputation of the trademarks are harmed by association in any event. In all the circumstances there is a detrimental impact on the reputation and professional activities of the Complainants.
- There is the distinct possibility that the disputed domain name was registered in order that the Respondent might offer the same for sale to either the Complainants (or their competitors) at a price higher than the cost of registration and in the hope that the parties bid against each other to secure the disputed domain name.

B. Respondent

Despite of being procedurally summoned, the Respondent did not reply to the Complainants’ 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 Complainants have clearly shown rights in respect of ALDI trademarks 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, with the addition of a hyphen and of the term "partnership".

The addition of the term "partnership" and of the generic Top-Level Domain (gTLD) ".shop" do not prevent a finding of confusing similarity under the first element. The nature of such additional term may however bear on assessment of the second and third elements. See section 1.8 of the [WIPO Overview 3.0](#)

The disputed domain name is confusingly similar to the Complainants' trademark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.7, having the Complainants' trademark recognizable within the disputed domain name.

Accordingly, 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 disputed domain name. 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 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.

There is no available record that the Respondent owns any trademark corresponding to the disputed domain name nor that the Respondent has been commonly known by disputed domain name.

The disputed domain name is currently used to host a website which features use of the ALDI name and logo, and an 'about' page describing the Complainants' corporate history. Given the similarity between the ALDI trademarks and the disputed domain name, Internet users accessing the website are likely to believe that its content is endorsed or otherwise authorized by the Complainants.

The Panel finds that the Respondent appears to pass off as the Complainants. No such use could be ever considered bona fide use of the disputed domain name, as prior panels have held that the use of a domain name for illegal activity, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, 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, 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 the Respondent:

- registered the disputed domain name which incorporates the ALDI trademark which holds an enhanced distinctive character and reputation in the United Kingdom, European Union and beyond as a result of the substantial sustained use made of them by the Complainants and their connected companies.
- registered the disputed domain name to enhance confusion as it suggests that the disputed domain name hosts a webpage relating to goods or services which are specifically sold by the Complainants.
- currently uses the disputed domain name to host a website which features use of the ALDI name and logo, and an 'about' page describing the Complainants' corporate history.

The Panel agrees with the Complainants that given the similarity between the ALDI trademarks and the disputed domain name, Internet users accessing the website are likely to believe that its content is endorsed or otherwise authorized by the Complainants and thus there is a strong possibility that by registering the disputed domain name, the Respondent intentionally used to attract Internet users, for commercial gain, to the website hosted at the disputed domain name by creating a likelihood of confusion with the ALDI trademark, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website of the Respondent.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Additionally, considering that impersonation/passing off constitutes bad faith as per [WIPO Overview 3.0](#), section 3.4., this 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-partnership.shop> be transferred to the Complainant Aldi Stores Limited.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: August 20, 2024