

ADMINISTRATIVE PANEL DECISION

Neomarche (Alinea) v. Domain Privacy, Domain Name Privacy Inc
Case No. D2024-2717

1. The Parties

The Complainant is Neomarche (Alinea), France, represented by Tmark Conseils, France.

The Respondent is Domain Privacy, Domain Name Privacy Inc, Cyprus.

2. The Domain Name and Registrar

The disputed domain name <alinea.club> is registered with Communigal Communications Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 3, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 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 (Domain Name Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 amended Complaint on July 8, 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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally sent notification to the Respondent of the Complaint, and the proceedings commenced on July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent's default on August 5, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on August 9, 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, established in 2020, operates in the interior design and furniture industry, designing, manufacturing, and marketing furniture and decorative items. The Complainant is registered under the corporate name “Neomarche” (ALINEA) in France and has a strong presence in 22 French cities, including Lyon, Paris, and Bordeaux, with worldwide delivery through its official website.

The Complainant holds registered marks for ALINEA, which are used in connection with interior design and furniture products, including International figurative mark **alinea** Registration No. 1394645 designating the European Union, registered on October 17, 2017, for goods and services in Classes 3, 4, 6, 7, 8, 9, 10, 11, 16, 17, 20, 21, 22, 24, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 42, 43, and 45. The Complainant’s ALINEA mark has been used and promoted since 1989.

The Complainant holds a domain name that includes the ALINEA mark, with <alinea.com>, which was registered April 13, 2002, hosting the Complainant’s official website.

The disputed domain name was registered on December 5, 2023, and at the time of the Complaint filing it was redirected to a parking page with pay-per-click links related to the furniture industry.

The Respondent is Domain Privacy, Domain Name Privacy Inc from Cyprus.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to their well-known ALINEA mark. The disputed domain name consists of the ALINEA mark, and the addition of the “.club” generic Top-Level Domain (“gTLD”), which does not reduce the likelihood of confusion.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant owns the famous ALINEA mark and did not authorize its use by the Respondent. The disputed domain name seems to exploit the Complainant’s mark for commercial gain, indicating that the Respondent’s actions are in bad faith and lack legitimate rights.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. Given the global recognition of the ALINEA mark, it is unlikely that the Respondent registered the disputed domain name by chance. The prominence of the ALINEA mark in the furniture industry suggests the Respondent was aware of the Complainant’s rights. The disputed domain name resolves to a parking page with pay-per-click links related to furniture websites of the Complainant’s competitors and more generally websites selling goods competing with the goods sold under the Complainant’s mark ALINEA, indicating an attempt to profit from the Complainant’s mark by confusing Internet users. Additionally, the presence of mail exchanger records (“MX records”) suggests potential misuse for spam or phishing, further showing bad faith.

B. Respondent

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

6. Discussion and Findings

As the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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 Complainant has shown rights in respect of the ALINEA 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 identical to the ALINEA mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Furthermore, it is well accepted practice by UDRP panels that a gTLD, such as ".club", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.1.1 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take the gTLD ".club" into account when assessing confusing similarity of the disputed domain name.

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.

According to the Complainant, it seems that the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted the Respondent any license or authorization to use or register any domain name that includes the Complainant's ALINEA mark. The Respondent has further failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name. Additionally, there appears to be no evidence of the Respondent engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or bona fide activities, since the disputed domain name, at the time of the Complaint filing, resolved to a parking page with pay-per-click links related to furniture. These links redirect to websites of the Complainant's competitors and website selling goods competing the goods sold under the Complainant's mark ALINEA.

Moreover, the nature of the disputed domain name, being identical to the Complainant's ALINEA mark, carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

The Respondent's disputed domain name includes the Complainant's ALINEA mark in its entirety, along with the gTLD ".club". The Complainant operates an online presence through the domain name <alinea.com>, which provides information about its activities. The webpage associated with the disputed domain name is a parking page featuring pay-per-click links related to furniture. These links at the time of the complaint filing redirected Internet users to websites of the Complainant's competitors or to sites offering goods that compete with those sold under the ALINEA mark. Such use amounts to bad faith as set out in section 4(b)(iv) of the Policy.

The Complainant's mark predates the registration of the disputed domain name by approximately six years. Given these facts, it is highly probable that the Respondent was aware of the Complainant's rights and the ALINEA mark at the time of the disputed domain name registration, which supports the conclusion that the domain name was registered in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used 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.

Additionally, the disputed domain name could potentially be used for email communication, as indicated by the configuration of MX records. This raises the possibility that the Respondent might be using the disputed domain name for activities such as spamming or phishing.

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

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 <alinea.club> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: August 21, 2024