

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG and Aldi Stores Limited v. David Czinczenheim
Case No. D2023-0751

1. The Parties

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

The Respondent is David Czinczenheim, France.

2. The Domain Name and Registrar

The disputed domain name <aldihosting.com> is registered with NamePal.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 2023, 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 (Statutory Masking Enabled) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on March 14, 2023.

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 notified the Respondent of the Complaint, and the proceedings commenced on March 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on April 12, 2023. 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, Aldi GmbH & Co. KG, owns the trademark ALDI used in connection with grocery retail. Examples of the trademark registration include the following registrations:

1. United Kingdom trademark registration No. UK00002250300 registered on March 30, 2001;
2. United Kingdom trademark registration No. UK00002460745 registered on March 28, 2008.

The disputed domain name was registered by the Respondent on July 30, 2022. The disputed domain name is offered for sale at the price of EUR 399.

5. Parties' Contentions

A. Complainants

The Complainants contend that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainants have rights. The Complainants own various trademark registrations for the trademark ALDI. The disputed domain name reproduces the Complainants' trademark ALDI. The use of the word "hosting" enhances confusion as it suggests that the domain will host a webpage relating to the Complainants' services and goods. Furthermore, this amounts to a case of misrepresentation.

The Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent registered the disputed domain name on July 30, 2022, which is years after the Complainants acquired rights in the trademark ALDI. The Respondent is not authorized by the Complainants to use their trademark as part of the domain name. In addition, the disputed domain name is not used in connection with a *bona fide* offering of goods or services, the Respondent is not commonly known by the disputed domain name and has not made a legitimate noncommercial or fair use of the disputed domain name.

The Complainants contend that the disputed domain name was registered and is being used in bad faith. The disputed domain name constitutes unauthorized use of the Complainants' trademark and will lead Internet users into believing it has some form of association with the Complainants. The disputed domain name is intended to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainants' trademark. There is a detrimental impact on the reputation and activities of the Complainants. Lastly, there is a likelihood that the disputed domain name was registered in order to be offered for sale at a price higher than the cost of registration.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant, Aldi GmbH & Co. KG, owns trademark registrations for the trademark ALDI. The Panel is satisfied that the Complainants have established the ownership of the trademark ALDI.

The disputed domain name incorporates the Complainants' trademark ALDI in its entirety. The addition of the term "hosting" does not prevent a finding of confusing similarity.

The gTLD ".com" should typically be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainants and that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainants assert that the Respondent is not affiliated with nor authorized by the Complainants to use the trademark ALDI. Therefore, it is for the Respondent to prove that it has rights or legitimate interests. The Respondent has not been able to prove any rights or legitimate interests in the disputed domain name. Accordingly, the Complainants have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have been aware of the Complainants' trademark for a number of reasons;

1. The trademark ADLI had been registered two decades prior to the registration of the disputed domain name, 2. The trademark ALDI is not a dictionary word, and 3. A simple Google search reveals the Complainants' trademark.

The disputed domain name is offered for sale at the price of EUR 399. Registration and use of a disputed domain name is deemed to be in bad faith when the aim is to sell the disputed domain name for a price exceeding out-of-pocket costs (paragraph 4(b)(i) of the Policy). The Panel notes that the disputed domain name is offered for sale and is not used otherwise for any purpose (See *Bev Marks (Australia) Pty Ltd v. Domain Manager*, WIPO Case No. [D2018-2789](#)). Therefore, under the circumstances, the Panel is of the view that registration and use has been made in bad faith.

Accordingly, the Panel finds that the Complainants have satisfied paragraph 4(a)(iii) 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, <aldihosting.com> be transferred to the Complainant, Aldi Stores Limited.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: April 26, 2023