

Decision for dispute CAC-UDRP-105902

Case number	CAC-UDRP-105902
Time of filing	2023-10-25 08:34:02
Domain names	alpinestarsbike.com, alpinestarsvelo.com, ALPINESTARS-SALE.COM, LISAALPINESTARS.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	ALPINESTARS RESEARCH S.P.A.
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Complainant representative

Organization	Convey srl
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RESPONDENTS

Name	NingXueyuan
Name	XiaoSijie
Name	peng lao
Name	yu su

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the Disputed Domain Names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark ALPINESTARS having many international and national trademark registrations worldwide (the earliest trademark registration was issued on March 19, 1985) including the EU trademark ALPINESTARS (Reg. No. 005583588) of October 10, 2007 in classes 9, 12, 14, 18, 25.

FACTUAL BACKGROUND

The Complainant, ALPINESTARS RESEARCH S.P.A., is the Italian company which is a well-known motorsports and action sports safety equipment manufacturer based in Asolo, Italy, founded in 1963 by Sante Mazzarolo. The Complainant is the owner of the trademark ALPINESTARS having many international and national trademark registrations worldwide (the earliest trademark registration was issued on March 19, 1985) including the EU trademark Reg. No 005583588 ALPINESTARS of October 10, 2007 in classes 9, 12,

14, 18, 25. The Complainant develops products for men, women and kids in the following sectors: auto racing, karting, motocross, enduro, dual-sport, road racing, commuting, touring, adventure, riding, urban riding, mountain biking, flat track, endurance racing and Dakar. In order to protect and promote its brand also on the Internet, the Complainant registered several domain names consisting of or comprising the trademark ALPINESTARS under several different TLDs, including <alpinestars.com>, which was registered on January 26, 1999, <alpinestars.it>, registered on August 06, 1997, <alpinestars.us>, registered on April 19, 2002, <alpinestars.cn>, registered on April 11, 2005. The Complainant's website www.alpinestars.com and the associated Social Media accounts generate a significant number of visits by Internet users every day and are used by the Complainant to promote and also sell online its products.

The Disputed Domain Names were registered by the Respondent(s), without authorization of Complainant, in April 2023. They have been all pointed to websites entirely dedicated to the sale of goods bearing the Complainant's marks and having similar layouts, footers, products for sale. As soon as the Complainant became aware of the Respondent's registration and use of the Domain Names, confusingly similar to its registered and well-known trademark ALPINESTARS, it addressed the Registrant with a cease-and-desist letter on July 31, 2023. The Registrant of the Disputed Domain Names did not reply but deactivated the domain names <alpinestarsde.com> and <alpinestarsale.com>. In light of the absence of a reply and the failure to comply with the requests, the Complainant filed the present Complaint in order to obtain the transfer of the Disputed Domain Names under its ownership and control.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the Disputed Domain Names should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent(s) to have no rights or legitimate interests in respect of the Disputed Domain Names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The first issue in this case is whether the Complaint can be consolidated against the various named Respondents, as requested by the Complainant. The Disputed Domain Names were registered in the names of different individuals.

Paragraphs 10(e) and 3(c) of the Rules provide:

"10(e) A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules."

"3(c) The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder."

These provisions empower the Panel to consolidate multiple domain name disputes in a single decision or for a complainant to file a complaint relating to multiple domain names subject to the requirement that the Disputed Domain Names are registered by the same domain-name holder.

The Complainant argues that the Complaint should be consolidated on the basis that the Disputed Domain Names belong to the same entity/organization, despite being formally registered by different holders. In particular, these Disputed Domain Names are addressed to websites sharing a layout that is confusingly similar, i.e. the same footer on the corresponding homepages, the same payment methods (Visa, PayPal, Stripe, Mastercard, Cash on Delivery), copyright disclaimer, same pages of checkout, as well as the same

ALPINESTARS logo used in the header of all the websites at issue. Furthermore, the websites corresponding to the Disputed Domain Names share the same extension <.com> as well as the same Hosting Provider and nameservers (Cloudflare, Inc.). Last but not least, each domain name is combined of generic and meaningful terms along with the trademarked denomination "alpinestars".

According to the Complainant, all the above circumstances strengthen the request for consolidation of the Disputed Domain Names in a single UDRP proceeding due to the evidence that all these domain names are all under a common control.

The Panel is of the view that the following elements cumulatively demonstrate that consolidation of all the parties and Disputed Domain Names is possible.

The presented evidence show that the Disputed Domain Names share the following similarities: (a) same TLD of the domain names <.com>; (b) same Hosting Provider and nameservers (Cloudflare, Inc.); (c) same lay-out of the websites (for instance, same header, same footer; (d) same copyright disclaimer; (e) same means of payment (Visa, PayPal, Stripe, Mastercard, Cash on Delivery); (f) same pages of checkout; (g) sharing the presence in each domain name of generic terms along with the trademarked denomination "alpinestars".

It is the view of the Panel that the Complainant has sufficiently demonstrated that all the Disputed Domain Names are under common management and control of the same entity.

None of these statements made in the Complaint or its evidence has been challenged by the Respondents.

The Complainant has provided evidence related to the Disputed Domain Names and the connections between them, as outlined above. The Respondents have provided no evidence in response to what was put forward by the Complainant.

The Panel also finds that the consolidation in this case is fair and equitable. It is, therefore, more procedurally efficient to proceed with a single decision.

The Panel notes that it is not necessary for it to find that the Disputed Domain Names are registered nominally to a single entity or person (see Para. 4.11.2 of WIPO Overview 3.0 and the listed relevant decisions therein). The main issue is whether the Respondent(s) can be treated as a single domain name holder, because they are involved in a common enterprise, and whether it is procedurally fair and efficient to do so. The definition of the "Respondent" under paragraph 1 of the Rules does not exclude the "holder" of the domain name registrations from being a common enterprise, being carried out by multiple individuals (See *Yahoo! Inc. v. Mahesh Rohatgi / Prakhar Rastogi, Bestwebexperts.com / Prakhar Rastogi, Best Web Experts / Privacy Protection Service INC d/b/a PrivacyProtect.org / Prashant Mishra, Vipra Business Solution / Rina Rohatgi / Wemo Tech Support / Charu Rohatgi / Alina Jain / Raju Hirani, Alfa Infosystem / Brijesh Pandey, IBS Infosystem / Registration Private, Domains By Proxy, LLC / Amit Singh / Satya Prakash / Rajveer Singh Chawla / Pooja Pandey, Innovative Business Solutions, WIPO Case No. D2015-2323*).

For all of the named reasons above, the Panel agrees to the consolidation of the Complaint with regard to each of the Disputed Domain Names.

The Panel is satisfied that all other procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel agrees with the Complainant that the Disputed Domain Names (<alpinestarsbike.com>; <alpinestarsvelo.com>; <alpinestars-sale.com>; <lisaalpinestars.com>) are confusingly similar to the Complainant's trademark ALPINESTARS. The addition of the generic terms "bike", "velo", "-sale" is not sufficient to escape the finding that the relevant disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant's trademark. The same applies to the prefix "lisa" (probably, female name Lisa) attached to the Complainant's trademark. As set forth in section 1.7 of WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondents are not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized or permitted Respondents to use Complainant's trademark in any manner, including in domain names. The names of the Respondent(s) do not resemble the Disputed Domain Names in any manner. Respondents' use of the Disputed Domain Names does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the Disputed Domain Names were registered in bad faith.

As the Disputed Domain Names resolves to the e-shops of various allegedly counterfeit products with the Complainant's brand, one can simply conclude that Respondents' knowledge about the Complainant's prior rights was inevitable. Therefore, by using the Disputed Domain Names, the Respondent(s) has(have) intentionally attempted to attract, for commercial gain, Internet users to its(their) website,

by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his (their) websites (Para. 4(b)(iv) of the Policy). Therefore, the Respondent(s) knew of should have known about the Complainant's rights, which evidences bad faith in using the Disputed Domain Names.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **alpinestarsbike.com**: Transferred
- 2. **alpinestarsvelo.com**: Transferred
- 3. **ALPINESTARS-SALE.COM**: Transferred
- 4. **LISAALPINESTARS.COM**: Transferred

PANELLISTS

Name **Darius Sauliūnas**

DATE OF PANEL DECISION 2023-11-28

Publish the Decision