Decision for dispute CAC-UDRP-102984

Case number	CAC-UDRP-102984
Time of filing	2020-03-23 09:20:52
Domain names	ikea.cloud

Case administrator

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

Complainant

Organization	Inter IKEA Systems B.V.

Complainant representative

Organization	Convey srl

Respondent

Name	lino cao

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the International trademark registration 000109652 IKEA registered on October 1, 1998 in numerous classes being in effect.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is the worldwide IKEA franchisor and responsible for the developing and supplying the global IKEA range, inter alia furniture. The IKEA group has over 220.000 employees and is active in over 50 markets.

The disputed domain name was registered on December 9, 2019. A website under the disputed domain name shows „Reserved“. On the Sedo platform, the disputed domain name was on sale. Initially, the contact information of the respondent was „redacted for privacy“.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 to have no rights or legitimate interests in respect of the disputed domain name (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 name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all 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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(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 with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “IKEA”.

The disputed domain name is confusingly similar, i.e. identical to the Complainant´s mark.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark „IKEA" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “IKEA” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Panel does not believe that the application of a domain name being identical to a distinctive trademark sign being applied by the Complainant is accidental. This is in particular true, when the trademark is well-known as in the present case. The Panel follows insofar the case law in relevant cases, see for example Inter IKEA Systems B.V. v. Zhang Vivian, WIPO Case No. D2015-0163.

This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

The disputed domain name was not resolving to an active website at the time of filing. However, the consensus view amongst panelists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that "the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, the registrant's concealment of its identity and the implausibility of any good faith use. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **IKEA.CLOUD**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2020-05-06

Publish the Decision