Decision for dispute CAC-UDRP-101647

Case number	CAC-UDRP-101647
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Domain names	ikea-family.net

Case administrator

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

Complainant

Organization	Inter IKEA Systems B.V.

Complainant representative

Organization	Convey srl

Respondent

Name	Nanci Nette

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 name.

IDENTIFICATION OF RIGHTS

The Complainant holds a portfolio of international and national trademark registrations worldwide, including:
• United States of America Trademark Registration IKEA registration number 1118706, registered on the Principal Register on May 22, 1979. for goods and services in international classes 11, 20, 21, 24, 27;
• United States of America Trademark and Service Mark Registration IKEA registration number 1661360, registered on October 22, 1991 for goods and services in international classes 2, 18, 25, 29, 30, 31, 35, 36, 39, 41;
• European Union Trademark Registration IKEA, registration number 000109652, registered on October 1, 1998 for goods and services in classes 2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 36, 39, 41, and 42;
• European Union Trademark Registration IKEA, registration number 000109637, registered on October 8, 1998 for goods and services in classes 2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 26, 39, 41, 42;
• International Trademark Registration IKEA (figurative), registration number 926155 registered on April 24, 2007 for goods and services in classes 16, 20, 35, 43 designating also Russia;
• European Union Trademark Registration IKEA FAMILY, registration number 005560826, registered on April 24, 2008 for goods and services in classes 2, 3, 6, 8, 9, 11, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 35, 41;
• German registered trademark IKEA, registration number DE867152, registered on March 12, 1970 for goods in class 20;

• Italian registered trademark IKEA (figurative), registration number 001257211, registered on March 12, 2009 for goods in class 20.

FACTUAL BACKGROUND

The Complainant is the worldwide IKEA franchisor and responsible for developing and supplying the global IKEA range of household goods and furnishings and related services for which it uses the IKEA and IKEA FAMILY registered trademarks.

The Complainant has an established Internet presence with its principal web site at www.ikea.com which was launched in 1997. It owns 441 domain names on generic Top-Level Domains ("gTLD") and 294 domain names on country code Top-Level Domains ("ccTLD") including <ikea.com>, <ikea.net>, <ikea.ru>, <ikea.us>, <ikea.cn>, <ikea.de>, <ikea.it>, and <ikea.co.uk>.

The disputed domain name was registered on January 14, 2020 and resolves to a parking page displaying pay-per-click links mentioning IKEA and IKEA FAMILY trademarks in the text of some ads. The disputed domain name is also offered for sale on a third-party platform.

There is no information available about Respondent except for that provided in the Complaint, the Registrar's WhoIs and the information provided by the Registrar in response to the request for verification of the registration details of the disputed domain name in the course of this proceeding.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant claims rights in the IKEA and IKEA FAMILY trademarks established by its ownership of the above-listed portfolio of trademark and service mark registrations and the goodwill established by the extensive use and consumer recognition of the marks, since the first use of the IKEA mark in Sweden in 1943. The Complainant has since grown to have an international business with more than four hundred stores, approximately 220,000 employees in fifty markets and almost a billion of visitors per year, worldwide.

The Complainant submits that the disputed domain name <ikea-family.net> is identical or confusingly similar to the IKEA and IKEA FAMILY trademarks and service marks in which the Complainant has rights because it reproduces each of the Complainant's marks in its entirety with the addition of the dash - between the words "IKEA" and "FAMILY" in the latter mark.

The Complainant submits that the addition of the dash character does not reduce the high degree of similarity between the disputed domain name and the Complainant's IKEA FAMILY mark and adds that the gTLD <.net> extension should be ignored for the purposes of comparison as it is merely instrumental to the use of the disputed domain name on the Internet. See The Forward Association, Inc., v. Enterprises Unlimited (Forum case FA0008000095491, October 3, 2000).

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name asserting that the mere registration of a domain name does not establish rights or legitimate interest. See Pharmacia & Upjohn Company v. Moreonline, WIPO Case No. D2000-0134 and National Football League Properties, Inc. and Chargers Football Company v. One Sex Entertainment Co., a/k/a chargergirls.net, WIPO Case No. D2000-0118.

The Complainant asserts that it is not in possession of, nor aware of, any evidence demonstrating that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name as an individual, business, or other organization.

The Complainant adds that the Respondent is not an authorized dealer of the Complainant nor has the Respondent ever been authorized by the Complainant to use the trademark IKEA in the disputed domain name.

The Complaint further asserts that there is no evidence showing that the Respondent has any registered trademark rights with respect to the disputed domain name. The disputed domain name was registered on January, 14, 2020, many years after the Complainant commenced use of the IKEA and the IKEA FAMILY trademarks and they had become widely known.

The Complainant asserts that IKEA is an inherently distinctive trademark, being neither generic nor descriptive, explaining that it is an acronym without any meaning other than as the Complainant's trademark. It is completely original and creative, coined in 1943 from the initials of Complainant's founder, i.e. Ingvar Kamprad, the farm on which he grew up, i.e. Elmtaryd, and the nearby village, i.e. Agunnaryd.

The Complainant adds that there is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before any notice of the dispute.

The Complainant refers to a screen capture of the website to which the disputed domain name resolves which show that it was at first connected to a parking page displaying pay-per-click links mentioning IKEA and IKEA FAMILY trademarks in the text of some advertisements.

Another screen capture shows that the disputed domain name is being offered for sale on a third-party platform, for a minimum of USD$ 500.00. The Complainant submits that the offer for sale of the disputed domain name for a minimum of USD$ 500.00 clearly an amount exceeding any documented out-of-pocket costs sustained by the Respondent for the registration of the disputed domain name.

The Complainant then alleges that the disputed domain name has been registered and is being used in bad faith, submitting that at the time of registration of the disputed domain name on February 25, 2015, IKEA was one of the world's most well-known global brands.

The Complainant argues that it is therefore inconceivable that the registrant of the disputed domain name could have been unaware of the existence of the Complainant's registered trademark at the time of the registration, and coincidentally chosen and registered the disputed domain name without knowledge of the Complainant's rights. The Complainant submits that the disputed domain name intentionally encapsulates the Complainant's distinctive marks.

The Complainant submits that the disputed domain name was registered in bad with the Complainant's trademark in mind, aiming to profit from fame of the IKEA mark and has been used in bad faith to attract, for commercial gain, Internet users to the website corresponding to the disputed domain name, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of such web site or location or of a product or service on such web site or location.

The Complainant adds that when the Complainant became aware of the registration and use of the disputed domain name, it served cease and desist letters on June 4, 2021 on the Respondent and the corresponding Internet Service Providers, formally notifying them of the infringement of the Complainant's trademark rights, requesting the immediate cease of any use, and the transfer of the disputed domain name to the Complainant. The Respondent has not replied.

RESPONDENT:

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

The Complainant has provided uncontested convincing evidence of its rights in the IKEA and IKEA FAMILY trademarks established by its ownership of the above-listed portfolio of trademark and service mark registrations and the goodwill established by its extensive use of the marks and the consequent consumer recognition acquired since the Complainant commenced us of the IKEA mark in Sweden in 1943. The Complainant has grown to become a worldwide business with more than four hundred stores, approximately 220,000 employees in fifty markets and almost a billion of visitors per year, worldwide and an established Internet presence.

The disputed domain name <ikea-family.net> consists of both Complainant's IKEA and IKEA FAMILY registered trademarks in their entirety with the addition of a hyphen between the words "ikea" and "family", together with the gTLD <.net> extension.

The Complainant's marks are the dominant and only distinctive elements in the disputed domain name. In the circumstances of this proceeding. The hyphen has no distinguishing character and the gTLD extension may be ignored for the purposes of comparison as it would be considered by Internet users to be a technical requirement for a domain name.

The Complainant has therefore succeeded in the first element of the test in Policy paragraph 4(a)(i).

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name submitting that:

• the mere registration of a domain name does not establish rights or legitimate interests in a disputed domain name;
• the Complainant is not in possession of, nor aware of the existence of, any evidence demonstrating that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name as an individual, business, or other organization;
• the Respondent is not an authorized dealer of the Complainant nor has the Respondent ever been authorized by the Complainant to use the IKEA trademark in the disputed domain name;
• there is no evidence showing that Respondent has any registered trademark rights with respect to the disputed domain name;
• the Respondent registered the disputed domain name on January, 14, 2020, years after both the IKEA and the IKEA FAMILY inherently distinctive trademarks had become widely known;
• there is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before any notice of the dispute;
• the screen captures of the website to which the disputed domain name resolves, which have been submitted in evidence by the Complainant in an annex to the Complaint, show that the disputed domain name resolved to a parking page displaying pay-per-click links mentioning IKEA and IKEA FAMILY trademarks in the text of some ads and is also offered for sale via Sedo.com platform, for a minimum of USD$ 500.00.

It is well established that where a complainant makes out a prima facie case that the respondent has no rights or legitimate interests in a domain name at issue the burden of production shifts to the respondent to prove the existence of such rights

or interests.

In this case, the Complainant has made out a prima facie case; the Respondent has failed to file a Response; and therefore, the Respondent has failed to discharge the burden of production.

This Panel must therefore find that the Respondent has no rights or legitimate interests in the disputed domain name and the Complainant has succeeded in the second element of the test in Policy paragraph 4(a)(ii).

At the time of registration of the disputed domain name on January 14, 2020, the Complainant's IKEA business and use of the IKEA marks were long established and famous. IKEA had become one of the world's most well-known global brands. It is implausible that the registrant could have coincidentally chosen the disputed domain name without knowledge of the Complainant's marks.

It is inconceivable that a registrant, based in the USA, would coincidentally hit upon the combination of the elements in the Complainant's IKEA FAMILY mark without actual knowledge of the mark. This Panel finds therefore that the disputed domain name was registered in bad faith with the intention of taking predatory advantage of the Complainant's goodwill and reputation in its name and mark in order to profit from the association of the mark and the disputed domain name, to confuse Internet users and divert Internet traffic intended for the Complainant.

The uncontested evidence of the Complainant shows that the disputed domain name resolves to a parking page with pay-per-click links and therefore the Respondent is profiting from the unauthorized use of the Complainant's IKEA and IKEA FAMILY trademarks in the disputed domain name in order to confuse Internet users and to attract and divert Internet traffic intended for the Complainant in order to generate pay-per-click income for the Respondent.

The screen capture of the webpage to which the disputed domain name resolves shows "sponsored listings" namely "IKEA Family Card", "House Painting Estimate Calculator", "Ikea Family", "How to Advertise on Google Shopping", and "Bath Risers". These links clearly reference the Complainant's business. There is a purported disclaimer statement which states "The Sponsored Listings displayed above are served automatically by a third party. Neither the service provider nor the domain owner maintain any relationship with the advertisers. In case of trademark issues please contact the domain owner directly (contact information can be found in whois)".

Furthermore, another screen capture annexed to the Complaint shows that the Respondent is offering the disputed domain name for sale on another third-party website inviting offers starting at a minimum of USD$500.00 which is a sum in excess of its out-of-pocket costs in registering the disputed domain name. The Respondent clearly has no rights or legitimate interests in the disputed domain name and has registered and is using it in bad faith to take predatory advantage of the Complainant's name, mark, goodwill and reputation.

As this Panel has found that the disputed domain name was registered and is being used in bad faith, the Complainant has succeeded in the third and final element of the test in Policy paragraph 4(i)(a) and is entitled to succeed in its application.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **IKEA-FAMILY.NET**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2021-08-17