

Decision for dispute CAC-UDRP-104589

Case number	CAC-UDRP-104589
Time of filing	2022-05-17 09:29:25
Domain names	ikks-back.com, ikksorder.com, ikkstask.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	IKKS GROUP
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	gdfgd dfdff
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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 has evidenced to be the owner of numerous trademark registrations worldwide relating to its company name and brand "IKKS", including, but not limited, to the following:

- Word mark IKKS, European Union Intellectual Property Office (EUIPO), registration No.: 002255552, registration date: July 11, 2002, status: active;
- Word mark IKKS, International Trademark/World Intellectual Property Organization (WIPO), registration No.: 782171, registration date: May 2, 2002, status: active.

Also, the Complainant has substantiated to own numerous domain names relating to its IKKS trademark, inter alia, the domain name <ikks.com> which redirects to the Complainant's main website at "www.ikks.com", used since 1998 to promote the Complainant's products and related services in the fashion industry.

FACTUAL BACKGROUND

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

It is well established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”(WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

The Complainant refers to previous panel decisions such as:

Forum Case No. FA 156251, Am. Int’l Group, Inc. v. Busby (finding that the respondent attempts to pass itself off as the complainant online, which is blatant unauthorized use of the complainant’s mark and is evidence that the respondent has no rights or legitimate interests in the disputed domain name).

WIPO Case No. D2000-1164, Boeing Co. v. Bressi (“the Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names”).

- Forum Case No. 1770729, UNFCU Financial Services, LLC d/b/a Industrial Coverage v. Clark Lienemann (“Use of a confusingly similar domain name to pass off as complainant to conduct a phishing scheme is evidence of bad faith under Policy ¶ 4(b)(iv).”);

- Forum Case No. 1760987, Ripple Labs Inc. v. Thomas Viva Vivas (“Use of a domain name to create confusion as to the source, sponsorship, affiliation, or endorsement of competing content therein can evidence bad faith under Policy ¶ 4(b)(iv).”).

PARTIES CONTENTIONS

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 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 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 Panel finds that the disputed domain names <ikks-back.com>, <ikksorder.com> as well as <ikkstask.com> are confusingly similar to the Complainant’s IKKS trademark, since all of them incorporate the IKKS trademark in its entirety, simply added by the terms “back” (together with a hyphen), “order” and “task”. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has also been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive or other terms, such as e.g. the terms “back”, “order” and “task, is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant’s IKKS trademark in the disputed domain names.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Also, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither

made use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain names, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain names without intent for commercial gain. On the contrary, the Complainant has provided evidence that on May 12, 2022, the disputed domain name <ikksorder.com> resolved to a website at “www.ikksorder.com” that prominently displayed the Complainant’s official IKKS logo with no authorization to do so. Such making use of the disputed domain name <ikksorder.com> - obviously in a fraudulent manner - neither qualifies as a bona fide nor as a legitimate non-commercial or fair use under the UDRP. Besides, the Complainant has also demonstrated that by the same time the disputed domain names <ikks-back.com> as well as <ikkstask.com> did not connect to any relevant content on the Internet, but were passively held instead. Many UDRP panels, however, have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, may not of itself confer rights or legitimate interests in a disputed domain name.

Accordingly, the Panel has no difficulty in finding that the Respondent has no rights or legitimate interests in respect of any of the disputed domain names, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain names were registered and are being used by the Respondent in bad faith. It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant’s rights in the IKKS trademark when registering the disputed domain names, and that they all are directly targeting the Complainant’s trademark. Moreover, carrying out unlawful (or at least unauthorized) activities under the disputed domain name <ikksorder.com>, which is confusingly similar to the Complainant’s IKKS trademark, by displaying on the Internet the Complainant’s official IKKS logo with no authorization to do so, leaves no doubts that the Respondent, by registering and making use of this disputed domain name, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant’s IKKS trademark, and, thus, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant’s IKKS trademark as to the source, sponsorship, affiliation or endorsement of the Respondent’s website. Such circumstances are evidence of registration and use of the disputed domain name <ikksorder.com> in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Finally, as for the disputed domain names <ikks-back.com> as well as <ikkstask.com>, there is also a consensus view among UDRP panelists that a passive holding of a disputed domain name may, in appropriate circumstances, be consistent with the finding of bad faith, in particular in circumstances in which, for example, a complainant’s trademark is well-known, and there is no conceivable use that could be made of the disputed domain name and would not amount to an infringement of the complainant’s trademark’s rights. In the case at hand, in the absence of any other reasonable explanation as to why the Respondent should rely on the disputed domain names <ikks-back.com> as well as <ikkstask.com> and given that the Respondent has brought forward nothing in substance relating to the intended use of those disputed domain names, and finally in light of the unauthorized and presumably unlawful use of the disputed domain name <ikksorder.com>, the Panel finds that the Respondent has registered and is making use also of the disputed domain names <ikks-back.com> as well as <ikkstask.com> in a manner which at least takes unjustified and unfair advantage of the Complainant’s IKKS trademark’s fame and must, therefore, be as well considered as registered and being used in bad faith within the meaning of the Policy.

In this context, it also carries weight in the eyes of the Panel that the Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name (e.g. neither a valid name nor a valid address). This fact at least throws a light on Respondent’s behavior which supports the Panel’s bad faith finding.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **IKKS-BACK.COM**: Transferred
2. **IKKSORDER.COM**: Transferred
3. **IKKSTASK.COM**: Transferred

PANELLISTS

Name **Stephanie G. Hartung, LL.M.**

DATE OF PANEL DECISION 2022-06-20

Publish the Decision
