

Decision for dispute CAC-UDRP-105061

Case number	CAC-UDRP-105061
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Time of filing	2022-12-16 09:18:53
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Domain names	1kea.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Inter IKEA Systems B.V.
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Complainant representative

Organization	Convey srl
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Respondent

Organization	The Management Group II
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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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademarks worldwide consisting of and or containing the term "IKEA", amongst others of U.S. Trademark Registration n. 1661360 IKEA (word) registered on October 22, 1991 in classes 30, 41, 18, 29, 39, 25, 36, 2, 35, 31; European Union Trademark Registration n. 000109652 IKEA (word) registered on October 1, 1998 in classes 2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 36, 39, 41, 42.

FACTUAL BACKGROUND

It results from the Complainant's undisputed allegations that it is the worldwide IKEA franchisor and responsible for developing and supplying the global IKEA range. The IKEA Group is active in the home furnishing sector with more than four hundred stores and has roughly 231,000 employees worldwide reaching more than sixty markets and 822 million visitors per year. It was founded in Älmhult, a small Swedish village in the countryside, in 1943 by Ingvar Kamprad to sell household. The international expansion of the IKEA business began with establishments of small start-up stores in Norway in 1963 and in Denmark in 1969. Then, in 1973 the first IKEA store outside Scandinavia was established in Switzerland, followed by stores in Germany in the coming years. In 1980s IKEA expands noticeably into new markets such as U.S., Italy, France and the UK. The Complainant started its retail operations in U.S. in 1985 and now it operates with a network of fifty-three stores.

The Complainant further contends its trademark IKEA be distinctive and well-known all around the world, including in US, where the

Respondent is located.

The Complainant uses the domain name <ikea.com> to connect to a website, launched in 1997, through which it advertises and sell its IKEA related products and services.

The disputed domain name <1kea.com> was registered on November 13, 2017. It is offered for sale via Sedo platform (for a minimum offer amount of 500 USD).

On November 30, 2022 a cease-and-desist letter was sent by the Complainant's authorized representative to the Respondent requesting to refrain from using the disputed domain name as well as to transfer the disputed domain name to the Complainant. There was no reply and no comply to this request.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name 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 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

1. The Panel finds that the disputed domain name < 1kea.com> is confusingly similar to the Complainant's trademark "IKEA". In the case at issue the Complainant's registered trademark "IKEA" is almost fully included in the disputed domain name. On this regard, it is the view of this Panel that the mere substitution of the consonant "I" with the number "1" results to be a common, obvious or intentional misspelling of the trademark "IKEA". Thus, the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at point 1.9. Finally, it is the view of this Panel that the addition of the Top Level Domain in the disputed domain name - i.e. "com" - represents a standard registration requirement and has to be disregarded in determining the confusing similarity, see WIPO Jurisprudential Overview 3.0 at section 1.11.1.

2. Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark IKEA. Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name consists of a common, obvious, or intentional misspelling of the Complainant's registered and well-known trademark "IKEA" and that this is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. So that this Panel finds it most likely that employing a misspelling in this way signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant with the intention to take advantage of the Complainant's reputation (see e.g. Holding Le Duff "HLD" v. Chris saber, WIPO Case No. D2022-4167).

It is acknowledged that once the Panel finds a prima facie case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see WIPO Jurisprudential Overview 3.0 at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

3. According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith.

The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, in particular, but without limitation, be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name (paragraph 4(b)(i) of the Policy).

It is the view of this Panel that the Respondent has actually registered the disputed domain name primarily for the purpose of selling it either to the Complainant or to third persons, in particular to one of the Complainant's competitors, for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name. According to the Complainant's uncontested allegations, the Respondent has offered the disputed domain name for sale on the domain marketplace Sedo (i.e. for a minimum offer amount of 500 USD). This Panel finds that this sum is in excess of any out-of-pocket costs directly related to the disputed domain name (see e.g. Tosara Pharma Limited v. Super Privacy Service LTD c/o Dynadot / zuhal topuz, WIPO Case No. D2021-4062; Expanscience v. Sarah Hampton, WIPO Case No. DCO2020-0064; T. Rowe Price Group, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. D2019-1955; Linatex Limited v. Yunkook Jung, WIPO Case No. D2019-1784).

In addition, this finding of bad faith registration and use is further supported by the further circumstances resulting from the case at hand, which are the following: (i) the nature of the domain name (i.e. a typo of a widely-known mark); (ii) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name; (iii) the Respondent's failure to submit a response and to reply to the cease and desist letter (see WIPO Jurisprudential Overview 3.0 at section 3.2.1).

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **1kea.com**: Transferred

PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION	2023-01-23
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Publish the Decision