

Decision for dispute CAC-UDRP-105602

Case number **CAC-UDRP-105602**

Time of filing **2023-07-10 10:37:38**

Domain names **ikea-tmall.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **Inter IKEA Systems B.V.**

Complainant representative

Organization **Convey srl**

Respondent

Organization **Milen Radumilo**

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 owner of the renowned IKEA trademark registered in numerous countries. The Complainant owns *inter alia* the following registrations:

Canadian Trademark Registration n. TMA223748 for IKEA registered on October 21, 1977;

U.S.A. Trademark Registration n. 1118706 for IKEA registered on May 22, 1979;

U.S.A. Trademark Registration n. 1661360 for IKEA registered on October 22, 1991;

European Union Trademark Registration n. 000109652 for IKEA registered on October 1, 1998;

European Union Trademark Registration n. 000109637 for IKEA registered on October 8, 1998;

International Trademark Registration n. 926155 for IKEA registered on April 24, 2007.

Italian Trademark Registration n. 0001257211 for IKEA registered on March 12, 2010.

The Complainant also owns an important domain names portfolio, including the same distinctive wording IKEA, such as the domain name <ikea.com>, <ikea.net>, <ikea.us>, <ikea.ca>, <ikea.cn>, <ikea.de>, <ikea.it>, and <ikea.co.uk>.

FACTUAL BACKGROUND

The Complainant is the worldwide IKEA franchisor and is responsible for developing and supplying the global IKEA range. IKEA is one of the most well-known home furnishing brands in the world with more than four hundred stores, and the IKEA Group overall has roughly 231,000 employees worldwide, reaching more than sixty markets and receiving almost a billion visitors per year. The use of the IKEA trademark started more than 70 years ago and the trademark is renowned for its business services and brand recognition. According to Best Global Brands of Interbrand, in 2022 the IKEA brand was ranked in twenty-eighth position.

The disputed domain name was registered on March 31, 2023.

The disputed domain name points to a parking page displaying pay-per-click links, and is also offered for sale through the GoDaddy platform.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant states that the disputed domain name is confusingly similar to its trademark IKEA and its domain names. In support of this claim, the Complainant refers to prior UDRP cases and affirms that it is a well-established principle that when a domain name wholly incorporates the Complainant's registered mark, the first requirement under the UDRP shall be considered accomplished.

Further, the Complainant asserts that the addition of the term "Tmall" is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark.

Besides, the Complainant asserts that the IKEA trademark is a renowned trademark, and that past panels have confirmed this renown of the IKEA trademark.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. No licence nor authorization has been granted to the Respondent to make any use of the Complainant's IKEA trademark, nor has permission been given to apply for registration of the disputed domain name.

3. The disputed domain name has been registered and is being used in bad faith.

The Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark IKEA. The Complainant asserts that the Respondent's use of the disputed domain name for a parking page hosting pay-per-click links to third party websites related to the furniture sector and to the Complainant's website, and the fact that the disputed domain name is offered for sale for an amount exceeding the documentable out-of-pocket costs, is proof of bad-faith registration and use. Besides, the Complainant contends that the Respondent has not replied to the cease and desist letters sent on April 5, 2023 and on June 19, 2023 by the Complainant, and consequently it has failed to provide evidence of contemplated good-faith use.

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

1. A) Confusing similarity

The disputed domain name contains the Complainant's registered international trademark IKEA in its entirety with the addition of a hyphen and the term "tmall".

This Panel finds that the Complainant's IKEA trademark is clearly recognizable in the disputed domain name, and that the addition of the term "tmall" does not prevent a finding of confusing similarity.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements".

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

1. B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

1. C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the Respondent is using the disputed domain name for a parking page hosting pay-per-click links to third party websites related to the furniture sector and to the Complainant's website.

Fourthly, the disputed domain name is offered for sale for an amount exceeding the documentable out-of-pocket costs.

Lastly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ikea-tmall.com**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION 2023-08-07

Publish the Decision
