Decision for dispute CAC-UDRP-107401

Case number	CAC-UDRP-107401
Time of filing	2025-03-17 08:19:44
Domain names	geekbark.com

Case administrator

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

Complainant

Organization	Guangdong Qisitech CO., LTD.

Complainant representative

Organization	Chofn Intellectual Property

Respondent

Name	Soraya Braik Franzolim

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 several «GEEK BAR » registered trademarks, including the following:

International trademark GEEK BAR (word) registration No. 1676896, registered on June 8, 2022, designating the Syrian Arab Republic, and the Islamic Republic of Iran;

United States trademark GEEK BAR (word) registration No. 6275589, registered on February 23, 2021;

European trademark GEEK BAR (word) registration No. 018225081, registered on August 26, 2020.

FACTUAL BACKGROUND

The Complainant, Guangdong Qisitech CO., LTD., a Chinese company, was established in 2016 and focuses on the development, production and sales of the GEEK BAR-branded disposable electronic e-cigarette. The Complainant claims to sell GEEK BAR-branded goods in Russia, the United States, the Middle East, Europe and other countries, and to provide cigarette replacement solutions for hundreds of millions of users around the world.

The GEEK BAR brand was founded in 2005 and is now independently operated by the Complainant.

The disputed domain name <geekbark.com > was registered on October 21, 2024.

The disputed domain name resolves to a page sponsored by Spotify where the message “this store does not exist” is displayed. From the case file it appears that at the time the complaint was filed the disputed domain name resolved to a website promoting and offering for sale clothing and accessories for dog owners .

The disputed domain name is registered in the name of Soraya Braik Franzolim, with the organization named as Geek Bark. The Respondent, self-represented, appears to be a private person residing in Brazil doing business as Geek Bark.

PARTIES CONTENTIONS

The Complainant contends that:

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

The Complainant contends that the disputed domain name, which contains the Complainant’s trademark in its entirety with the addition of the letter “k” at the end of it, is confusingly similar to its trademark “GEEK BAR”.

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

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or 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, and is not related to the Complainant’s business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent. Furthermore, the Complainant contends that the disputed domain name is a misspelt version of the GEEK BAR trademark, and that intentional misspellings of third parties’ intellectual property (commonly known as “typosquatting”) does not constitute fair use and is the antithesis of a legitimate noncommercial or fair use of a domain name.
The Complainant affirms that the content displayed on the website pointed to by the disputed domain name is unrelated to the business operated by the Complainant. However, the fact that the Respondent did not clearly state on this website that it has no connection with the GEEK BAR trademark can be seen as an inference that the Respondent registered and used the disputed domain name purely to take advantage of the Complainant's popularity.

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

The Complainant contends that the GEEK BAR trademark has acquired a high level of popularity due to its extensive use and that the GEEK BAR trademark does not correspond to any word in common use in French, English or any other language. Therefore, owing to the distinctiveness of the Complainant’s trademark and reputation, it is shown that the Respondent was aware of the Complainant’s rights in the GEEK BAR trademark when it registered the disputed domain name.
The Complainant further contends that the Respondent has used the disputed domain name to sell clothing, water cups and other goods in order to take advantage of the popularity of the Complainant's trademark.

The Respondent contends that:

The Respondent was not aware of the GEEK BAR trademark at the time it registered the disputed domain name.
The choice of the name “geekbark” was made independently and in good faith, based on the combination of the words "geek" (which refers to the geek/pop culture) and "bark" (i.e. the sound a dog makes), which reflects the identity of the Respondent’s business, which sells clothing and accessories for dog owners.
The name GEEK BARK was thus chosen independently and without any intention of infringing on the GEEK BAR trademark.
Before registering the disputed domain name, the Respondent conducted a preliminary search to check for any trademark registrations that might prevent its use, and found no such registrations for GEEK BARK.
The business sectors in which the two brands operate are completely distinct, with no competition between the products offered, namely the Respondent is in the pet market, focusing on clothing and accessories for dog owners, whereas the Complainant is in the field of electronic cigarettes.
The two signs are conceptually different and target completely different audiences, and thus there is no possibility of confusion for the public.
The Complainant’s arguments disregard the fact that “bark” is a stand alone word with its own identity, directly linked to the purpose of the Respondent’s business.
There was never any bad faith in the use of the disputed domain name.
Finally, to demonstrate its own good faith, the Respondent voluntarily took the website offline and responded to the Complainant’s complaint the day after receiving it.
The Respondent thus asks for the complaint to be dismissed.

RIGHTS

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 not, 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 not, 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

A) Confusing similarity

The disputed domain name contains the Complainant's trademark with the addition of the letter "k" and the generic Top-Level Domain ".com".

This Panel agrees with previous UDRP decisions affirming that confusing similarity is generally established when the domain name incorporates the Complainant's trademark in its entirety, and that the addition of generic prefixes and suffixes does not avoid confusing similarity. See Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662, and section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

Accordingly, the Panel finds that the Complainant has succeeded in establishing the first element of the Policy.

B) Lack of legitimate rights or interests

Policy Paragraph 4(a)(ii), as expanded upon by Paragraph 4(c), provides the Respondent with an opportunity to demonstrate that its conduct was not in bad faith. This can be accomplished by the respondent providing sufficient evidence that its conduct falls within one of the following three non-exclusive circumstances:

(i) before any notice of the dispute, respondent´s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) respondent (as an individual, business, or other organization) have been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent asserts that it did not target the Complainant's trademark, but rather it developed the expression "geek bark" on its own and without either knowledge of or reference to the Complainant's trademark. The Respondent further asserts that its purpose in developing the expression "geek bark" was for a domain name to be used in connection with the Respondent's business, which sells clothing and accessories for dog owners. The Respondent's creation and selection of this expression, as well as its efforts to develop its activity, predate the notice of the present dispute.

As a side note, the Panel observes that the Complainant's assertion that the GEEK BAR does not correspond to any word in common use in French, English or any other language appears to be incorrect. In fact, while "geekbar" as a single word might not have any meaning, the GEEK BAR trademark, as also indicated by the Complainant, is composed of two distinct terms, "Geek" and "Bar". These terms are commonly used in English (and in other languages) to respectively indicate "someone who is intelligent but not fashionable or popular" (https://dictionary.cambridge.org/dictionary/english/geek), and "a place where drinks, especially alcoholic

drinks, are sold and drunk, or the area in such a place where the person serving the drinks stands“ (https://dictionary.cambridge.org/dictionary/english/bar).

Consequently, having reviewed the case file, it is the Panel’s view that the disputed domain name appears to be the combination of the two words, “geek” and “bark”, rather than a misspelt version of the GEEK BAR trademark, and that, on the balance of probabilities, the Respondent’s explanation for choosing the disputed domain name, combined with the content displayed on the related website, appears credible.

Furthermore, based on the record, it appears that the Respondent, before receiving notice of the present dispute, has been using or at the very least preparing for the use of the disputed domain name in connection with a bona fide offering of goods or services without the intention of misleading internet users.

Indeed, owing to the existing differences between the signs, from the conceptual viewpoint, and between the target markets to which the signs refer, it is very unlikely that consumers would mistakenly believe that the Respondent is authorized by or affiliated to the Complainant, so causing actual confusion.

The Panel thus disagrees with the Complainant’s assertion that the lack of a disclaimer on the Respondent’s website, stating that the Respondent has no connection with the GEEK BAR trademark, can be seen as an inference of bad faith use of the disputed domain name.

The Panel finds that the Complainant has failed to establish the second element of the Policy, and that the Respondent has rights or legitimate interests in the disputed domain name.

C) Registered and Used in Bad Faith

In light of the Panel’s finding under section B) above, the Panel shall not consider this UDRP Policy ground, as any such finding would consequently be immaterial to the outcome of this UDRP administrative proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **geekbark.com**: Remaining with the Respondent

PANELLISTS

Name	**Fabrizio Bedarida**

DATE OF PANEL DECISION 2025-04-04

Publish the Decision