

ADMINISTRATIVE PANEL DECISION

**K7 Computing Private Limited v. Domain Admin, Privacy Protect, LLC /
Domain Admin, TotalDomain Privacy Ltd
Case No. D2022-0733**

1. The Parties

The Complainant is K7 Computing Private Limited, India, represented by KRIA Law, India.

The Respondent is Domain Admin, Privacy Protect, LLC, United States of America / Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <k7antivirus.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 2, 2022. On March 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 4, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 8, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2022.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on April 6, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company incorporated in India on April 24, 1998 with a history dating back to 1991. The Complainant is an antivirus software provider, and it describes its founder as a pioneer in the field of IT security who wrote one of India's first antivirus programs in 1991. The Complainant changed its name to K7 Computing Private Limited on December 30, 1998. The term "K7" was coined to refer to the Complainant's founder's commonly used name of Kesavan, which is pronounced in a similar way. The Complainant has its headquarters in Chennai, India, and subsidiaries in Singapore and the United States of America. The Complainant has marketed products under the K7 formative mark since at least 2007, including "K7 Antivirus" and "K7 Mobile Security". The Complainant has obtained various official certifications and awards for its products.

The Complainant is the owner of Indian Registered Trademark No. 1609347 for the word mark K7 ANTIVIRUS, registered with effect from October 9, 2007 in Class 42. The Complainant is also the owner of a variety of registered trademarks for the mark K7 COMPUTING, the earliest of which appears to be Indian Registered Trademark No. 2390458 for the device mark K7 COMPUTING consisting of the words "K7" in black, in a stylized typeface with an orange triangle in the space under the top bar of the letter "7", surmounting the word "COMPUTING" in black, registered with effect from September 9, 2012 in Class 9. The Complainant also owns a word mark in respect of the words K7 COMPUTING, namely Indian Registered Trademark No. 3906418, registered with effect from August 3, 2018 in Class 9.

The disputed domain name was registered on May 10, 2011. Little is known regarding the Respondent which has not participated in the administrative proceeding, and which has been concealed behind two privacy services in an apparent "Russian doll" scenario. According to a screenshot provided by the Complainant, the website associated with the disputed domain name contains advertising or pay-per-click links and offers the disputed domain name for sale for an asking price of USD 12,999. When visited by the Panel, said website auto-forwarded the Panel's browser to a website comparing multiple antivirus software providers and packages¹. On a second visit, the website displayed pay-per-click advertising similar to the Complainant's screenshot. Said advertising featured a competitor of the Complainant's antivirus software package.

5. Parties' Contentions

A. Complainant

In summary, the Complainant contends as follows:

Identical or confusingly similar

The disputed domain name incorporates the entirety of the Complainant's K7 ANTIVIRUS trademark and is identical to it. The mere addition of the generic Top-Level Domain ".com" is not enough to differentiate the trademark from said disputed domain name.

¹ On the topic of the Panel conducting limited factual research into matters of public record, such as visiting the website associated with the disputed domain name, see section 4.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Rights and legitimate interests

The disputed domain name is identical to the Complainant's trademark and was registered subsequent to the Complainant's use of the term by decades. The Respondent is a privacy service that conceals the Respondent's identity. In the decades of the Complainant's operations, there has been no other entity that has referred to itself as "K7" or "K7 Antivirus". The Complainant has not granted a license of its rights in favor of any party. The Respondent does not offer any goods or services under such name and the disputed domain name uses a placeholder containing advertisements or pay-per-click links that could be potentially malicious to the end user. Relevant searches for "K7 Antivirus" on multiple search engines only return results referring to the Complainant and not to the Respondent or any third party.

The term "K7 Antivirus" is specific, is an invented name, and is not generic. It is unlikely to be the name of any entity, especially in light of the Complainant's brand recognition for the corresponding software product. The use of the term must be construed as a deliberate effort to impersonate or claim an association with the Complainant. A search for other domain names relating to "K7 Antivirus" on several search engines has disclosed no other similar domain names, such that there is no evidence that the Respondent has been commonly known thereby.

The landing page associated with the disputed domain name cannot be considered a noncommercial or fair use. It does not involve the sale of a service offered by the Complainant itself or relate to information regarding the Complainant's products. It earns money on a per-click basis and is therefore commercial in nature. There is no disclaimer that the website is not associated with the Complainant.

Registered and used in bad faith

It is highly unlikely that the disputed domain name was registered without knowledge of the Complainant and the use of the entire mark K7 ANTIVIRUS shows a knowledge of the Complainant's offerings. The disputed domain name also seems to have been acquired for resale and is offered at a price of USD 12,999, being far above its cost. This shows bad faith. The Complainant's mark has existed at least since 1991 and documents proving actual use are available from 1995, while the Complainant's domain name <k7computing.com> has existed since 1997. The brand is widely known in many countries and is consistently ranked as one of the top antivirus software providers. The links on the website associated with the disputed domain name aim to convey a relationship between the name in the disputed domain name and related products offered by the Complainant. This association and the use of income-generating links shows a clear intention to attract the Complainant's customers and to monetize their interactions through confusion. The disputed domain name also constitutes typosquatting on the Complainant's own domain name. All such matters evidence bad faith registration and use on the Respondent's part.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

There are two parts to the inquiry under the first element of the Policy. In the first place, the Complainant must show to the Panel's satisfaction that it possesses UDRP-relevant rights in a trademark, whether registered or unregistered. In the second place, a comparison exercise is carried out between such trademark and the disputed domain name in order to determine whether the latter is identical or confusingly similar to the former. The comparison is typically made on a straightforward side-by-side basis in order to identify whether the mark is recognizable in the disputed domain name. The Top-Level Domain of the disputed domain name (in this case ".com") is usually disregarded in this comparison as being required for technical reasons only.

In the present case, the Complainant has established that it has UDRP-relevant rights in its registered trademark K7 ANTIVIRUS as described in the factual background section above. Comparing the Second-Level Domain of this mark to the disputed domain name, it may be seen that these are alphanumerically identical with the exception of the white space in the trademark, which itself is of no consequence as domain names cannot contain white space for technical reasons.

In all the above circumstances, the Panel finds that the disputed domain name is identical to the Complainant's trademark and that the Complainant has carried its burden with regard to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are 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 consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by a respondent, that such respondent has no rights or legitimate interests in the domain name concerned. In the present case, the Panel finds that the Complainant has made out such a *prima facie* case. The Complainant has demonstrated that the disputed domain name is identical to its trademark and was registered decades after the Complainant's first use of the (then unregistered) trademark in commerce. Furthermore, the Panel notes that the Complainant's registered K7 ANTIVIRUS trademark also predates the registration date of the disputed domain name, in this case by some four years. The evidence of media coverage of the Complainant's activities on the present record shows that the Complainant was using the term "K7" in connection with antivirus software as long ago as 1995.

Additionally, the Complainant notes that the Respondent's true identity remains concealed by a privacy service. While the original registrant on the face of the Whois record of the disputed domain name was a privacy service, the Panel notes that a different privacy service registrant was revealed as the underlying registrant in the Registrar's verification process. This continued concealment of identity does not lend any

support to the notion that the Respondent has rights and legitimate interests in the disputed domain name.

The Complainant also asserts that it has not licensed its trademark to any party such as the Respondent, that the Respondent is not making a *bona fide* offering of goods or services under the name, is not commonly known by such name and is using the disputed domain name in connection with advertisements or pay-per-click links that could be potentially malicious. The Panel has noted that some of such links point directly to competitors of the Complainant. This use, which targets the Complainant's rights in its K7 ANTIVIRUS trademark, cannot confer any rights or legitimate interests upon the Respondent.

The Complainant asserts that its trademark is a coined term which is not generic, and provides evidence that relevant searches on multiple search engines for "K7 Antivirus" do not return any results relating to the Respondent and indeed only return results referring to the Complainant, thus suggesting that the Respondent would not be able to make a credible claim of ignorance of the Complainant or its rights. The Panel accepts the Complainant's contention that the present use of the disputed domain name is not a noncommercial or fair use, given the presence of pay-per-click links on the associated website.

The Respondent has not engaged with the administrative proceeding and therefore has not taken the opportunity to put forward any claim to rights and legitimate interests in the disputed domain name. In the absence of such, the Panel cannot conceive of any suitable claim which the Respondent might have made, whether in terms of paragraph 4(c) of the Policy or otherwise, and in all of these circumstances, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly the Complainant has carried its burden with regard to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location”.

In the present case, the Panel is in no doubt based on the evidence on the record that the Respondent registered the disputed domain name with prior knowledge of the Complainant's K7 ANTIVIRUS trademark and with intent to target it. The Complainant's registered mark predates the registration date of the disputed domain name by a number of years. The Complainant's evidence shows that it has used the term "K7" both with and without the term "Antivirus" for decades and has received favorable media coverage for itself and its award-winning certified product, itself named "K7 Antivirus", over many years. Furthermore, Internet searches performed by the Complainant on multiple search engines indicate that the term "K7 Antivirus" exclusively refers to the Complainant and its product, and to no other party.

In terms of use, the disputed domain name is targeting the Complainant's mark by pointing Internet users to the Complainant's competitors by way of pay-per-click advertising. The disputed domain name is identical to the Complainant's mark and amounts to an impersonation of the Complainant or at least is likely to cause substantial confusion to Internet users. It therefore appears to the Panel that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of a product or service on its website in terms of paragraph 4(b)(iv) of the Policy.

The disputed domain name is being offered for sale at a price which is likely to be considerably greater than the Respondent's out of pocket costs directly related to it. It is reasonable to infer from the facts and circumstances of the case that the Respondent may have acquired the disputed domain name primarily for the purpose of selling it to the Complainant, or to a competitor of the Complainant, in terms of paragraph 4(b)(i) of the Policy, and has merely parked it to earn pay-per-click revenue pending such sale. Finally, the fact that the Respondent is a "disclosed" registrant which in turn is what appears to be a second privacy or proxy registration (sometimes referred to as a "Russian doll" scenario) supports an inference of the Respondent's bad faith in the circumstances of the present case as it suggests that the Respondent is making an attempt to shield its illegitimate conduct from a UDRP proceeding (see, for example, *Lidl Stiftung & Co. KG v. Domain Privacy Service FBO Registrant, The Endurance International Group, Inc. / Name Redacted*, WIPO Case No. [D2020-3128](#)).

Despite having been notified of the Complaint, the Respondent has not engaged with the administrative proceeding. It has made no attempt to address or refute the Complainant's contentions regarding the registration and use of the disputed domain name or to challenge the evidence which the Complainant has put forward. In the absence of any participation by the Respondent, the Panel cannot identify any potential good faith motivation which the Respondent might have had in connection with the registration or use of the disputed domain name.

In all of the above circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith, and accordingly that the Complainant has carried its burden in terms of paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <k7antivirus.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: April 20, 2022