

ADMINISTRATIVE PANEL DECISION

The Knowledge Academy Ltd v. Domains By Proxy, LLC / Be Knowledge Allah, Be Knowledge Academy
Case No. D2022-1046

1. The Parties

The Complainant is The Knowledge Academy Ltd, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Be Knowledge Allah, Be Knowledge Academy, United States.

2. The Domain Name and Registrar

The disputed domain name <beknowledgeacademy.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2022. On March 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 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 30, 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 April 21, 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 April 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2022.

The Center appointed John Swinson as the sole panelist in this matter on May 27, 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.

The Panel issued a Procedural Order on June 21, 2022, asking the parties to comment by June 27, 2022. The Complainant submitted a response to the Procedural Order on June 24, 2022. The Respondent did not reply to the Procedural Order.

4. Factual Background

The Complainant is an IT training company, which operates globally, providing training solutions to corporate, public sector, multinational organizations and private individuals. The Complainant delivers training in areas such as IT technical, personal development, human resources, and project management. The Complainant was incorporated on April 1, 2009. The Complainant offers services through its website at "www.theknowledgeacademy.com".

The Complainant owns trademark registrations for THE KNOWLEDGE ACADEMY, including United Kingdom Trade Mark registration No.UK00003104125, which was filed on April 15, 2015 and entered in the register on July 17, 2015 in Classes 9, 16, 35, and 41.

The Respondent did not file a Response, so little information is known about the Respondent.

The disputed domain name was registered on March 13, 2022. The disputed domain name resolves to a registrar-generated parking page.

5. Parties' Contentions

A. Complainant

In summary, the Complainant made the following submissions:

The Complainant is the world's largest and most established provider of training courses globally, with the capability to deliver over 30,000 courses in over 1,000 locations across 190 countries. To date, the Complainant has successfully trained over 1 million delegates.

The Complainant has advertised goods and services bearing the THE KNOWLEDGE ACADEMY trademark both online through its websites and off-line in a variety of publications. As a result of the Complainant's activities, it has built up substantial goodwill and gained a valuable reputation in the Complainant's trademark in relation to the goods and services to which they are registered with which the Complainant and no other is associated.

The disputed domain name is nearly identical to the Complainant's business and trading name and is also nearly to the Complainant's trademark with the only difference being the use of an "be" in the spelling of, rather than the similar sounding word "the".

No person would choose the disputed domain name unless with the intention to create a false impression of association with the Complainant in order to attract business from the Complainant or misleadingly to divert the public from the Complainant to the Respondent.

The Complainant considers it is reasonable to conclude that the Respondent registered the disputed domain name knowing that it is likely to attract interest from Internet users who are searching for the Complainant. Alternatively, that the Respondent registered the disputed domain name knowing that it is likely that

consumers in receipt of emails using the disputed domain name would be misled in to thinking that the Respondent is, or is connected to, the Complainant.

Given the Complainant's reputation in the THE KNOWLEDGE ACADEMY trademark, the Complainant considers it reasonable to conclude that the Respondent registered the disputed domain name in the full knowledge of its activities and reputation. The Complainant also considers that it is not possible for the Respondent to have acquired any legitimate right to use the disputed domain name since its registration three months ago or before.

The Complainant has reason to believe that the Respondent is using the disputed domain name for fraudulent purposes.

The Respondent will never be capable of using the disputed domain for a legitimate purpose as the notoriety and reputation of Complainant's trademark is such that members of the public will always assume that there is an association between the Respondent and the Complainant.

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 enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns trademark registrations for THE KNOWLEDGE ACADEMY. The disputed domain name includes "knowledge academy" in full but replaces "the" with "be".

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation. See, for example, *Consumer Reports, Inc. v. Wu Yan, Common Results, Inc.*, WIPO Case No. [D2017-0371](#).

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

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The *onus* of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts that the Respondent registered the disputed domain name to mislead consumers into believing that there is an association between the Complainant and the Respondent. The Complaint suggests that the Complainant has not given the Respondent permission to use the disputed domain name. The disputed domain name does not resolve to an active website, and so the Respondent does not have a legitimate noncommercial or fair use of the disputed domain name.

The Panel considers that, based upon the above, the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent has chosen not to file a formal Response. The Respondent has not produced any evidence to establish its rights or legitimate interests in the disputed domain name.

The Complaint does not address the issue that the Respondent's name, in the Registrar's records, is "Be Knowledge Academy". The Panel conducted Google searches, as the Panel is entitled to do. The address of the Respondent in the Registrar's records is a house in New Jersey, and does not appear to be a business address or the address of an Academy. The Panel became aware of a person New Jersey who appears to be a real estate broker in the same geographical area of the Respondent's recorded address. This person has the name "Be Knowledge Allah Sr." (The Panel also became aware of a person also in New Jersey with the name "Knowledge B Allah" but there is no known address or email for this person.) This suggests that the disputed domain name may relate to the name of the Respondent, if in fact one of these people is the Respondent. The Panel issued a Procedural Order to ask the parties to comment on this matter, and requested that the Center email the Procedural Order and the Complaint to Be Knowledge Allah

Sr. No response was received from the Respondent or Be Knowledge Allah Sr. Accordingly, it is uncertain whether Be Knowledge Allah Sr. is the Respondent in this dispute. Based on the evidence before the Panel, the Panel cannot draw the conclusion that the disputed domain name relates to the personal name of the Respondent.

Accordingly, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. The Panel finds on the evidence before the Panel that the Respondent has no rights or any legitimate interests in the disputed domain name.

The Complainant succeeds on the second element of the Policy in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

A finding that a domain name has been registered and is being used in bad faith generally requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The Complainant is seemingly well-known, at least in its field of business.

The Complaint states, that “the Complainant has reason to believe that the Respondent is using the [disputed domain name] for fraudulent purposes.” The Complaint provides little information about this allegation. It appears that the Complainant believes that the Respondent is using the disputed domain name for fraudulent emails. In the Procedural Order, the Panel asked the Complainant to provide any evidence of fraudulent or phishing emails sent from the disputed domain name, if any. The Complainant responded as follows: “... the Complainant, as an online business, has been subjected to numerous incidents of domain names registered in bad faith being used for fraudulent purposes. Whilst the Complainant is not in possession of any evidence in this instance, we contend that (given the nature of the Complainant’s business), this is a reasonable conclusion to draw.”

If the Respondent’s real name is or includes “Be Knowledge” (which as stated above, is not entirely clear), there is no explanation before the Panel as to why the Respondent registered a domain name that included the word “academy”. As stated above, the Respondent’s address in the registrar’s records does not appear to be the address of an Academy.

In short, the Respondent has provided no justification for registration of the disputed domain name.

If the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel must decide the dispute based upon the Complaint. See the Rules, paragraph 5(f).

The use of the words “be” and “knowledge” in the disputed domain name are an unusual combination. Without explanation from the Respondent, the Panel is left to conclude that this could be a case of typosquatting or potential phishing.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

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 <beknowledgeacademy.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: June 30, 2022