

ADMINISTRATIVE PANEL DECISION

**Khadi and Village Industries Commission v. M / S BANSIWALA KHADI
GRAM UDYOG HERBAL PRODUCT, Ranjit**
Case No. D2022-1198

1. The Parties

The Complainant is Khadi and Village Industries Commission, India, represented by Fidus Law Chambers, India.

The Respondent is M / S BANSIWALA KHADI GRAM UDYOG HERBAL PRODUCT, Ranjit, India.

2. The Domain Name and Registrar

The disputed domain name <bansiwalahadi.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 6, 2022. On April 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 6, 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 April 14, 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 18, 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 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Maninder Singh as the sole panelist in this matter on May 30, 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 stated to be a statutory body formed in April 1957 by the Government of India, under the Act of Parliament, 'Khadi and Village Industries Commission Act of 1956'. The Complainant is engaged in the promotion and development of the KHADI brand and the products under the KHADI trademark through the institutions certified by the Complainant. The Complainant claims to have adopted the trademark "KHADI" (which forms a part of its trade name, corporate name and trading style) on September 25, 1956, and the same has been in use continuously till date. The Complainant claims that by virtue of its adoption more than sixty years ago, and extensive use thereof, the trademark KHADI has become exclusively and globally associated with the Complainant in the eyes of consumers. The KHADI Trademarks are also registered in various other jurisdictions/regions.

- The Respondent has registered the disputed domain name <bansiw lakhadi.com> on August 14, 2017, and it resolves to a website stating "This site can't be reached".

5. Parties' Contentions

A. Complainant

- The Complainant organization is stated to have been established under the Ministry of Micro, Small and Medium Enterprises ("MSME"), Government of India with objectives to provide employment in rural areas, producing saleable articles and creating self reliance amongst people. The Complainant claims to have taken over, in April 1957, the work of former All India Khadi and Village Industries Board. The Complainant claims to play an important role in Indian economy with generation of employment in about 2.48 lakh villages in India. Its head office is in Mumbai, and it has six zonal offices. Other than its zonal offices, it has offices in 28 states for the implementation of its various programmes.

- The Complainant is stated to have been implementing programs for the development of Khadi and other Village Industries ("KVI") in the rural areas in coordination with other agencies. The programs offered by the Complainant are to promote products under the trademark KHADI. The Complainant also claims to work for upliftment and improvement of artisans, weavers and other members of small-scale village and rural industries.

- The Complainant plans, promotes, organizes and implements programs for the development of Khadi and other village industries in rural areas. It also helps in building up reserve of raw materials for supply to producers. It focuses on the creation of common service facilities for processing of raw materials and semi-finished goods. The Complainant has introduced several interest subsidy schemes for artisans, weavers and other members of small-scale village and rural industries.

- The Complainant claims to have owned numerous registrations for the word mark KHADI and device marks (hereinafter, the KHADI trademarks). The Complainant has annexed a list of the registered KHADI trademarks in India as Annexure F. The Complainant's KHADI Trademarks are also registered in various other jurisdictions/regions. The Complainant has annexed copies of the registration certificates as Annexure G.

- The Complainant claims to have adopted the trademark KHADI (which forms a part of its trade name, corporate name and trading style) on September 25, 1956, and the same has been in use continuously till date. The Complainant claims that by virtue of its adoption more than sixty years ago, and extensive use thereof, the trademark KHADI has become exclusively and globally associated with the Complainant in the eyes of consumers.

- The Complainant is stated to be engaged in the promotion and development of the KHADI brand and the products under the KHADI trademark through the institutions certified by the Complainant.
- The Complainant states that it authorizes various retail sellers, organizations, societies and institutions to sell products under the KHADI trademarks. In order to be listed as an authorized user of the KHADI trademarks for purpose of sales and promotions of KHADI certified products and services, each organization has to apply for recognition through the Khadi Institutions Registration & Certification Sewa (KIRCS). A screenshot of the KIRCS page from the Complainant's website is annexed as Annexure H.
- The Complainant claims that there are about seven sales outlets directly owned by the Complainant out of 8050 sales outlets spread across the country all selling authorized/ licensed products under the KHADI trademarks. The KHADI trademarks are prominently featured on boards and hoardings of each store that is authorized to sell products under the KHADI trademarks. The Complainant has annexed images of these stores as Annexure I. The Complainant further claims that the Complainant's KHADI trademarks are prominently featured on all the products sold by the Complainant in India and beyond.
- The Complainant claims that the Complainant's products bearing the KHADI trademarks are sold and showcased through exhibitions in various parts of the world. The Complainant has participated in several exhibitions and fairs to promote products and services under the KHADI trademarks and to encourage artisans, spinners and weavers of India. Further, the Complainant claims to have been actively involved in the community service in its efforts to further promote its products and services under the KHADI trademarks including sponsorship and organization of various events, competition and shows.
- The Complainant states that for the purposes of promotion of the KHADI trademarks, the Complainant collaborated with the 14th edition of the Lakme Fashion Week in 2018. The Complainant has also partnered with brands such as Raymond and Titan to promote the products under the trademark KHADI in the Indian and global markets.
- The Complainant claims that the Complainant's products under the KHADI trademarks have been widely promoted through print and electronic media, including television programs, advertisements, articles, write-ups appearing in leading newspapers, magazines, journals, shopping festivals, exhibitions. Copies of some of the articles published in various magazines and journals and images have been annexed as Annexure N.
- The Complainant also claims to operate several social media platforms, such as Facebook, Twitter, YouTube, etc. all of which enjoy a wide followership. Copies of the screenshots from the Complainant's social media platforms are annexed as Annexure O.
- The Complainant also claims to operate a mobile application by the name of "Khadi India" to help customers, patrons and members of trade in locating the nearest Khadi India Store. Screenshots of the app, have been annexed as Annexure P.
- The Complainant claims that by virtue of such continuous and exclusive use since at least 1956 as well as the promotion of the KHADI trademarks by the Complainant, general public and members of trade recognize and associate the goods and services under the KHADI trademarks with the Complainant and none other. The Complainant's KHADI trademarks, and its products thereunder has continued to gather a lot of media attention and has been covered by renowned media houses/newspapers.

Contentions of the Complainant regarding the disputed domain name being identical or confusingly similar to the Trademark or Service Mark of the Complainant:

- The Complainant contends that the disputed domain name wholly contains the Complainant's trademark KHADI. The Respondent has adopted the Complainant's trademark KHADI in its entirety.
- The Complainant relies upon decision in *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. HostMonster.com INC / Stephen Lee*, WIPO Case No. [D2010-1355](#), holding that the domain name

<voguemonster.com> is confusingly similar to the wellknown trademark VOGUE. In the above decision, the panel observed that “the incorporation of the VOGUE trademark in its entirety in the disputed domain name is itself sufficient to satisfy this first element.”

- The Complainant contends that due to the fame and reputation associated with the trademark KHADI, the first impression in the minds of the consumers shall be that the Respondent’s website originates from, is associated with, or is sponsored by the Complainant. The Complainant contends that the use of the disputed domain name would further give an inference to public at large, that the impugned disputed domain name is an extension of the already existing and well-known brand and trademark of the Complainant.

- The Complainant also contends that mere addition of an arbitrary term does not serve to distinguish the disputed domain name from the trademark KHADI. The use of the well-known trademark KHADI along with any arbitrary term ‘bansiwala’, do not, in any manner, assist in differentiating the well-known trademark KHADI from the disputed domain name <bansiwalahadi.com>. The KHADI trademark is the dominant portion of the disputed domain name. The adoption of a well-known trademark KHADI with any term, whether arbitrary or descriptive, would still lead the consumers to believe that the disputed domain name belongs to or is associated with the Complainant owing to the widespread use, goodwill and reputation of the trademark.

- The Complainant, in support of its submissions further relies upon following decisions:-

- (i) *Mary Victoria Kufeldt-Antle and Quadgirl, S. de R.L. de C.V. v. Kelly Williamson Martin, Kelly MacRae, Kelly Martin*, WIPO Case No. [D2018-1421](#), holding that the domain name <quadgirlmx.com> is confusingly similar to the trademark QUADGIRL since the addition of “mx” does not prevent a finding of confusing similarity.
- (ii) *Khadi & Village Industries Commission v. Srinivas Balasani*, WIPO Case No. [D2021-1374](#), wherein the panel, while judging the similarity between the domain name <tskhadi.com> and trademark KHADI, found that “the essential part of the disputed domain name is the KHADI mark. Although the letters “t” and “s” are prefixed to the mark, the trademark is recognizable in the disputed domain name. The addition of letters with the trademark does not prevent a finding of confusing similarity between the disputed domain name and the mark. The KHADI mark is the dominant part of the disputed domain name, despite the additional letters “t” and “s.” The panel decided that the disputed domain name is confusingly similar to the Complainant’s KHADI mark. The panel took a similar view in *Khadi & Village Industries Commission v. Friensys Solutions*, WIPO Case No. [D2021-2909](#), and decided that the domain name <vanshikhadi.com> is confusingly similar to the Complainant’s KHADI mark even though the KHADI mark was preceded by the term or word “vanshi”.
- (iii) *Khadi & Village Industries Commission v. Sachin Patil, MI Khadi*, WIPO Case No. [D2021-2557](#), the panel, while deciding the first element of identity or similarity between the disputed domain name <mikhadi.com> and the Complainant’s trademark KHADI, referred to Section 1.8 of [WIPO Overview 3.0](#) which says that “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”.

- The Complainant contends that the aforesaid observations are squarely applicable to the facts of the present case and directly lead to the conclusion that the disputed domain name <bansiwalahadi.com> is confusingly similar to the well-known trademark KHADI of the Complainant.

- The Complainant contends that the generic Top-Level Domain (“gTLD”) “.com” does not grant the disputed domain name distinctiveness regarding the trademark KHADI. The Complainant relies upon *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#) and on *KVIC v. Uttam Rao, Global Media Corp.*, WIPO Case No. [D2020-2934](#), which held “The addition of the generic Top-Level Domain (“gTLD”) “.com” to the disputed domain name is irrelevant and immaterial for purposes of

assessing confusing similarity with the Complainant's trademarks (*Diageo p.l.c. v. John Zuccarini*, WIPO Case No. [D2000-0541](#)).”

Contentions regarding the Respondent having no rights or legitimate interests in the disputed domain name:

- The Complainant contends that the Respondent merely parked the disputed domain name and has not hosted any content on the website for the past four years since its registration on August 14, 2017. There is also no demonstrable preparation to use or actual use of the disputed domain name in connection with any *bona fide* offering of goods or services as the Respondent has not even posted any detail of any proposed launch on the disputed domain name. The Complainant contends that it is inconceivable that anyone having legitimate interest over a domain name would keep the domain name inactive for a duration of nearly five years. The non-use of the disputed domain name for the long duration itself indicates that the Respondent has no interest, let alone legitimate interest, in the disputed domain name.

- The Complainant in its submissions relies on the observations of the Panels in the following cases:-

- (i) *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#), wherein “The mere registration of a domain name does not establish rights or legitimate interests in that name. There must be a fair or noncommercial use or a *bona fide* offering of goods under the domain name to establish rights or legitimate interests. No such use exists here.” was observed. The panel concluded that the Respondent has no legitimate interest in the disputed domain name.
- (ii) *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#); *Donald J. Trump v. Mediaking LLC d/b/a Mediaking Corporation and Aaftek Domain Corp.*, WIPO Case No. [D2010-1404](#); and *Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright*, WIPO Case No. [D2007-0267](#). In all the cases cited above, the panel observed and held that there was no *bona fide* use of the registered domain names by the Respondent for offering goods or services and the Respondent had merely parked the same to bank on the reputation of the Complainant. Such parking on the domain name resulted in the transfer of the same to the Complainant by all the panels.

- The Complainant contends that without prejudice to the above, any offering under the disputed domain name will be violating the Complainant's rights in the KHADI trademarks.

- The Complainant further contends that the Respondent registered this disputed domain name over six decades after the adoption of the mark KHADI by the Complainant. Furthermore, the trademark KHADI has not been used by anyone other than the Complainant or their licensees. It is obvious that it is the fame of the trademark that has motivated the Respondent to register the disputed domain name.

- The Complainant contends that it has not authorized or licensed the Respondent to use any of its trademarks in any way. Such unlicensed and unauthorized use of domain incorporating the Complainant's trademark is solely with a view to hoard the disputed domain name, misleadingly divert consumers, to tarnish the trademark of the Complainant.

- The Complainant contends that paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in a disputed domain name; none of them is applicable to the Respondents in the present case, as elaborated hereunder:

- The Complainant further contends that the disputed domain name has not been used by the Respondent till date since its registration on August 14, 2017, by the Respondent. The Respondent appears to be squatting on the disputed domain name, with no operational website. The Respondent registered the disputed domain name for commercial gain to try and get the Complainant to purchase it for a substantial fee. None of the exemptions provided under paragraph 4(c) of the Policy apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name. The Complainant has prior rights in the KHADI

trademark, which precedes the registration of the disputed domain name by the Respondent.

- The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name. The Complainant would like to rely on *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#) and *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Contentions regarding bad faith registration and use of the disputed domain name by the Respondent

- The Complainant contends that the disputed domain name is identical and/or deceptively similar to the Complainant's KHADI trademarks. The Respondent cannot have any rights or legitimate interest in the disputed domain name.

- The Complainant also contends that the primary aim of the Respondent is to sell or transfer the disputed domain name to the Complainant or any third party, for valuable consideration. The Respondent has failed to host any content of the disputed domain name or use it for any *bona fide* offering of goods/services.

This demonstrates that the Respondent has registered the disputed domain name in bad faith and with the *malafide* intention to extract some commercial advantage from the Complainant.

- The Complainant further contends that the landing page of the website hosted on the disputed domain name states 'This site can't be reached'. The Respondent has failed to make any use of the disputed domain name or even show any proposed launch under the disputed domain name. Such evident non-use of the disputed domain name till date makes it clear that the Respondent had registered the disputed domain name for the sole purpose of squatting on the same and evidently to resell it on premium for profits.

- The Complainant also contends that such non-use of the disputed domain name and inactivity of the Respondent for a long duration since the registration of the disputed domain name *i.e.* August 14, 2017, invariably leads to the bad faith and *malafide* intention of the Respondent involved in the registration of the disputed domain name.

- The Complainant relies upon the observations in the case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), wherein while discussing about the third element the panel observed "The significance of the distinction is that the concept of a domain name "being used in bad faith" is not limited to positive action; inaction is within the concept. That is to say, it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith."

- The above-mentioned fact supports the conclusion that the Respondent registered the disputed domain name in bad faith. The fame and unique qualities of the KHADI trademarks, which were adopted and applied for by the Complainant well prior to the registration of the disputed domain name, make it extremely unlikely that the Respondent created the disputed domain name independently without any knowledge of the Complainant's trademark. Even constructive knowledge of a famous trademark like KHADI is sufficient to establish registration in bad faith.

- The Complainant also relies on *Fannie May Confections, Inc. v. Domain Contact 2 (FANNIEMAYS-COM-DOM)*, WIPO Case No. [D2006-0813](#); and *Carla Sozzani Editore S.R.L. v. Michael D. Darr*, WIPO Case No. [D2017-1237](#), where a similar registration of a domain name by the Respondent several years after the adoption of the Complainant's mark was held to be with the motive to profit from the goodwill that the Complainant had built in its mark and was subsequently transferred to the Complainant.

- The Complainant contends that paragraph 2 of the Policy requires a registrant to make some good faith effort to avoid registering and using domain names corresponding to trademarks in violation of the Policy. The obligations imposed by paragraph 2 are an integral part of the Policy applicable to all registrants, and

cannot be ignored. The Complainant, in this regard, relies upon decision in *City Views Limited v. Moniker Privacy Services/Xander, Jeduyu, ALGEBRALIVE*, WIPO Case No. [D2009-0643](#). Hence, the Respondent had an onus to ensure that the registration of the disputed domain name did not violate the Complainant's trademark rights.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has furnished evidence of its rights in the trademark KHADI through details of its trademark registrations and common law rights have accrued to it through its long and substantial use of the mark not only in India but in certain other parts of the world.

The Panel has considered the documents submitted by the Complainant in support of its claim that the Complainant has been using and has various registrations for the trademark using the word "khadi". There does not appear to be any doubt that the Complainant is the owner of trademark KHADI.

The Panel finds it useful to refer to the decision in the case of *Advance Magazine Publishers Inc. v. Voguechen*, WIPO Case No. [D2014-0657](#), holding that – "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Panel finds merit in the contention of the Complainant that addition of an arbitrary term does not prevent confusing similarity between the disputed domain name and the trademark KHADI. The Panel agrees that the use of the well-known trademark KHADI along with any arbitrary term such as 'bansiwala', does not, in any manner, prevent confusing similarity. The KHADI trademark is the dominant portion of the disputed domain name.

In this regard, the Panel relies on the following previous UDRP decisions:

- (i) *Mary Victoria Kufeldt-Antle and Quadgirl, S. de R.L. de C.V. v. Kelly Williamson Martin, Kelly MacRae, Kelly Martin*, WIPO Case No. [D2018-1421](#); and
- (ii) *Khadi & Village Industries Commission v. Srinivas Balasani*, WIPO Case No. [D2021-1374](#),

The Panel also agrees with the Complainant's contention that the gTLD ".com" does not grant the disputed domain name distinctiveness regarding the trademark KHADI. Attention of the Panel, in this regard, has been drawn to *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#) holding that "the addition of the generic Top-Level Domain ("gTLD") ".com" to the disputed domain names is irrelevant and immaterial for purposes of assessing confusing similarity with the Complainant's trademarks."

The Complainant has therefore succeeded in establishing the first element of the test in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The second element requires the Complainant to make a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel observes that the Complainant has made out a case proving its rights in the trademark KHADI. The Complainant enjoys goodwill and reputation for the marks registered by it. The Panel has no doubt that the disputed domain name incorporates the well-known and famous trademark KHADI of the Complainant by adding the word "bansiwala" to it. The Panel is of the view that such an attempt on the part of the Respondent is to create confusion and to cash on/ride over the name, goodwill and reputation of the Complainant.

The Panel observes that the Respondent is in no way related to the Complainant or its business activities. The Respondent is neither an agent of the Complainant, nor does he carry out activities for the Complainant. On the other hand, the Complainant is undertaking all such functions for amelioration/development of the downtrodden masses located in the villages in India. The mark KHADI, in the above-mentioned background, indisputably vests in the Complainant as evidenced by various statutory registrations not only in India but other jurisdictions as well, secured by the Complainant.

The Panel agrees with the Complainant's contention that the Respondent has merely parked the domain and has not hosted any content on the website for the past four years since its registration on August 14, 2017. The Respondent has not submitted any response/rebuttal. The Panel observes that there is no demonstrable preparation to use or actual use of the disputed domain name in connection with any *bona fide* offering of goods or services as the Respondent has not posted any detail of any proposed launch on the disputed domain name.

The Panel agrees with the Complainant's contention that the non-use of the disputed domain name for the long duration itself indicates that the Respondent has no legitimate interest, in the disputed domain name. The Panel finds it useful to refer to and rely upon decisions in:-

- (i) *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#); and
- (ii) *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#); *Donald J. Trump v. Mediaking LLC d/b/a Mediaking Corporation and Aaftek Domain Corp.*, WIPO Case No. [D2010-1404](#); and *Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright*, WIPO Case No. [D2007-0267](#).

The Panel also finds merit in the Complainant's claim that the Complainant has established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and now the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name. The Respondent has not submitted any such evidence. The attention of the Panel in this regard has been drawn to *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

In the facts and circumstances of the present case, the Panel accepts and agrees that that the Respondent has not proved any *bona fide* use of the disputed domain name as he has failed to submit any appropriate and proper response to the contentions made by the Complainant.

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

C. Registered and Used in Bad Faith

Under the third element the Complainant is required to establish that the disputed domain name has been registered and is being used in bad faith by the Respondent.

The Panel observes that the disputed domain name <bansiwalakhadi.com> is confusingly similar to the Complainant's trademark KHADI. The Respondent's use of the mark KHADI in the disputed domain name is a violation of the Complainant's KHADI trademarks. The Panel also observes that the Respondent cannot have any rights or legitimate interest in the disputed domain name.

The Panel accepts the Complainant's contention that non-use of the disputed domain name and inactivity of

the Respondent for a long duration since the registration of the disputed domain name *i.e.* August 14, 2017, invariably leads to the bad faith and *malafide* intention of the Respondent involved in the registration of the disputed domain name. The Panel, in this regard, refers to and relies upon the decision in the case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), holding that “[t]he significance of the distinction is that the concept of a domain name “being used in bad faith” is not limited to positive action; inaction is within the concept. That is to say, it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith.”

The Panel, therefore, finds that the disputed domain name was registered and being used in bad faith by the Respondent.

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, <bansiwalakhadi.com> be transferred to the Complainant.

/Maninder Singh/

Maninder Singh

Sole Panelist

Date: June 13, 2022