

## **ADMINISTRATIVE PANEL DECISION**

Ciro Paone S.p.A. v. Sanli Zhang  
Case No. D2022-3870

### **1. The Parties**

Complainant is *Ciro Paone S.p.A.*, Italy, represented by *Studio Legale Bird & Bird*, Italy.

Respondent is *Sanli Zhang*, China.

### **2. The Domain Name and Registrar**

The disputed domain name <thekiton.com> is registered with *Name.com, Inc.* (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 14, 2022. On October 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on October 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 9, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on November 17, 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**

Complainant is a multinational company based in Italy. For many decades prior to the registration of the disputed domain name, Complainant has offered clothing and other goods under its KITON mark. Complainant owns numerous registrations for the KITON mark. These include, among others, European Union Registration No. 000135046 (registered October 2, 1998); United States of America Registration No. 4553832 (registered June 24, 2014), and Chinese Registration No. G699329 (registered June 3, 1998). In addition, Complainant owns the registration for the domain name <kiton.com>, which Complainant uses to connect with consumers, and to provide information about products offered under its KITON mark.

The disputed domain name was registered on December 9, 2021. Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that its KITON mark is a "well-known" brand of fashion with global recognition, as indicated by media references in the Telegraph, Vogue, Forbes, among others. Complainant contends that Respondent has incorporated the KITON mark into the disputed domain name, and merely added the basic article "the," which consumers will likely understand as an endorsement by Complainant. Complainant asserts that Respondent has no rights or legitimate interests in the domain name registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in setting up a website meant to impersonate Complainant and to confuse consumers as to the source of ownership of the disputed domain name. Complainant thus asserts that Respondent has used Complainant's mark for Respondent's own commercial gain.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

This Panel must first determine whether the disputed domain name <thekiton.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates Complainant's registered KITON mark, with the addition of the non-source-identifying article, "the".

Numerous UDRP panels have agreed that supplementing or modifying a trademark with generic or descriptive words does not prevent a finding of confusing similarity for purposes of satisfying this first prong of paragraph 4(a)(i) of the Policy. See, for example, *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#)

(transferring <ge-recruiting.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name “in connection with a *bona fide* offering of goods or services;” (ii) demonstration that Respondent has been “commonly known by the domain name;” or (iii) “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.”

Respondent did not submit a reply to Complainant’s contentions, and Respondent did not allege or otherwise provide any information that would support a finding that Respondent has rights or legitimate interest in the disputed domain name. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent’s lack of rights or legitimate interests in the disputed domain name, which Respondent has not rebutted.

## **C. Registered and Used in Bad Faith**

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or of a product or service on [the] web site or location”. As noted in Section 4 of this Panel’s decision, Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant. Respondent is thus trading on the goodwill of Complainant’s trademarks to attract Internet users, presumably for Respondent’s own commercial gain. *See also Krispy Kreme Doughnut Corporation, HDN Development Corporation*, WIPO Case No. [D2022-2376](#) (transferring <krispykremefranchising.com>).

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For all 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 <thekiton.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Dated: November 30, 2022