

ADMINISTRATIVE PANEL DECISION

Inter IKEA Systems B.V. v. Coman Mircea
Case No. DMD2022-0006

1. The Parties

The Complainant is Inter IKEA Systems B.V., Netherlands, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Coman Mircea, Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <ikea.md> is registered with Information Technology and Cyber Security Service (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 24, 2022. On October 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 2022, the Registrar transmitted by email to the Center its verification response 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 October 27, 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 October 27, 2022.

On October 27, 2022, the Center transmitted an email communication to the Parties in English and Romanian regarding the language of the proceeding. On October 27, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Romanian of the Complaint, and the proceedings commenced on November 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 24, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 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 the owner of a unique concept for the sale of furniture and home furnishing products marketed under the trademark IKEA. The Complainant's business model is developed through a franchise system. Only approved and licensed retailers are authorized to participate in the exclusive distribution system and make use of the IKEA trademark. With a history of nearly 80 years, currently, the Complainant operates 474 IKEA stores across 64 markets, with 225,000 co-workers, and has achieved retail sales of EUR 41,9 billion in the fiscal year 2021.

The Complainant received numerous accolades and recognitions, such that it has been recognized as the 27th Best Global Brands by Interbrand in 2021 and as the 40th World's Most Valuable Brands in the Forbes' 2022 ranking.

The Complainant's mark IKEA has no meaning of its own; it was created by its founder as an acronym from his name initials, Ingvar Kamprad, Elmtaaryd (his family farm), and Agunnaryd (the local parish).

The Complainant holds trademark registrations for IKEA in various countries and territories through the world such as the following word marks:

- the Moldovan trademark registration No. 2R 3376 for the IKEA filed on August 22, 1994, and registered on December 18, 1995, covering goods in Nice classes 11, 20, 24, 27; and
- the European Union Trade Mark registration No. 000109652 for IKEA filed on April 1, 1996, and registered on October 1, 1998, covering goods and services in Nice classes 2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 36, 39, 41, and 42.

The Complainant owns more than 300 domain names reproducing the trademark IKEA, the primary web portal being "www.ikea.com", which was listed by SimilarWeb analyze website as one of the 100th most popular portals worldwide, and the 174th in the United States of America, having received 240.2 million individual visits in August 2022 alone.

The disputed domain name was registered by the Respondent on March 26, 2021, and, at the time of filing the Complaint, it resolved to an error page.

The disputed domain name was registered in the name of the Complainant on February 23, 2005, but its registration inadvertently lapsed in February 2021.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to its well-known trademark IKEA, the Respondent has no rights or legitimate interests in the disputed domain name, the Respondent is not an approved or licensed retailer of the Complainant and the Respondent registered and is using the disputed domain name in bad faith.

The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

6.1. Preliminary Matter: Language of the Proceeding

The Complaint was filed in English. The language of the Registration Agreement is Romanian.

The Complainant requests the language of the proceeding be English mainly because it does not understand Romanian and it would be unfairly disadvantaged by the fact that it must translate all the documents in Romanian, and because the disputed domain name is formed of Latin characters and is reproducing exactly its fanciful trademark IKEA.

The Respondent, having been notified of the present proceeding in both English and Romanian, failed to provide any response with regard to the language of the proceeding, or otherwise.

Under paragraph 11 of the Rules, the language of the proceeding is the language of the registration agreement of the disputed domain name, unless both parties agree otherwise, or the panel determines otherwise based on one party's request. A panel may decide that the proceeding should be conducted in another language than that of the registration agreement when it is necessary due to the specific circumstances of the case, such as for example when the complainant does not understand the language of the registration agreement and it would therefore be unfairly disadvantaged by the fact that it must translate the complaint in such proceeding.

Noting the aim of conducting the proceeding with due expedition, paragraph 10 of the UDRP Rules vests the Panel with authority to conduct the proceeding in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

The Panel is familiar with both languages and therefore is able to understand the submissions made by the Parties in either of these two languages. The Panel would have accepted a response in Romanian, but the Respondent did not file a response.

The Panel considers that the Complainant will be disadvantaged if required to translate the Complaint into Romanian and the proceeding will be unduly delayed. See section 4.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). For all the above, the Panel decides that English is the language of the proceeding.

6.2. Substantive Matters:

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the IKEA trademark.

The disputed domain name reproduces the Complainant's trademark exactly.

Further, it is well established in decisions under the UDRP that the country-code Top Level Domain ("ccTLD"), in this case ".ro", being a technical requirement for registering Internet domain names, may typically be disregarded for the purpose of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is identical to the Complainant's trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that it has given no license or other right to use or register its trademark to the Respondent, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

Paragraph 4(c) of the UDRP Policy states that 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 the domain name registrant's rights or legitimate interests to the domain name for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to the domain name registrant of the dispute, the registrant'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) the domain name registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the registrant has acquired no trademark or service mark rights; or
- (iii) the domain name registrant 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.

In the present case, the disputed domain name incorporates exactly the trademark of the Complainant and is kept inactive. This cannot be considered evidence demonstrating that the Respondent has made a *bona fide* use of the disputed domain name, or that it is making any legitimate noncommercial or fair use of the disputed domain name. There is also no evidence that the Respondent is commonly known by the disputed domain name.

The disputed domain name was held by the Complainant for more than 15 years and has lapsed on February 2021, being shortly afterwards registered by the Respondent. The Panel accepts the Complainant's allegations that the Respondent's registration of the disputed domain name was opportunistic: a domain name belonging to a reputable company and reflecting its well-known trademark has inadvertently lapsed and was registered shortly after by an unrelated third party.

Furthermore, generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds trademark rights for IKEA for about 80 years and the IKEA trademark is highly distinctive and well-known worldwide. See also *Inter IKEA Systems BV (IISBV) v. Reza Sardashty, webdesign*, WIPO Case No. [DIR2018-0016](#) and cases cited therein.

The Respondent registered the disputed domain name in March 2021, shortly after the Complainant omitted by oversight to renew it in February 2021. Based on the available record, the Panel finds that the Respondent registered the disputed domain name in bad faith, due to its significance and fame as a trademark owned by the Complainant.

The disputed domain name was not actively used at the time of filing the Complaint, only displaying an error page. However, from the inception of the UDRP, panels have found that the non-use of a domain name (including a blank or "coming soon" or other similar inactive pages) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. Examples of what may be relevant circumstances found to be indicative of bad faith include the degree of distinctiveness or reputation of the complainant's mark, and the failure of the respondent to provide any arguments or evidence in its favor or to provide any evidence of actual or contemplated good-faith use. See section 3.3 of the [WIPO Overview 3.0](#).

In this case, the disputed domain name reproduces the Complainant's well-known trademark exactly and the Respondent has not participated in the present proceedings in order to put forward any arguments in its favor.

Furthermore, it was consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark constitutes, by itself, a presumption of bad faith registration for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <ikea.md> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: December 13, 2022