

ADMINISTRATIVE PANEL DECISION

Besiktas Jimnastik Kulübü Derneği v. Altan Tanriverdi, DevKit Srl.
Case No. D2024-2179

1. The Parties

Complainant is Besiktas Jimnastik Kulübü Derneği, Türkiye, represented by YILDIRIM LAW FIRM, Türkiye.

Respondent is Altan Tanriverdi, DevKit Srl., Italy, self-represented.

2. The Domain Name and Registrar

The disputed domain name <kartalyuvasi.com> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2024. On May 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 30, 2024, 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 May 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Response was filed with the Center on June 10, 2024.

The Center appointed Robert A. Badgley, Ahmet Akgüloğlu, and Diane Cabell as panelists in this matter on July 3, 2024. The Panel finds that it was properly constituted. Each member of 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.

On July 23, 2024, the Panel issued the following Procedural Order No. 1:

“The Parties are asked to provide the following information and documentation on or before July 31, 2024:

1. Complainant shall respond to the allegations in the Response that Complainant provided false or incomplete information about its trademark rights to the panel in a prior case (*Beşiktaş Jimnastik Kulübü Derneği v. Trademark Management*, WIPO Case No. [D2012-1291](#)) concerning this disputed domain name, and Complainant shall explain why it did not mention the mentioned prior UDRP case in the current proceeding.

2. Respondent shall provide contemporaneous evidence of its alleged business of selling eagle’s nests, such as government filings, receipts, advertisements, correspondence related to the business, and so forth. Respondent shall also explain (and provide corroborating documentation) why it acquired this disputed domain name in 2013, and why it did not use the disputed domain name for a website selling eagle’s nests until 2017.”

“The Parties may submit replies to the other Party’s submissions on or before August 7, 2024.”

“The Decision due date is extended to August 17, 2024.”

The Parties timely submitted their respective responses to Procedural Order No. 1.

On July 31, 2024, Respondent submitted its reply to Complainant’s response to Procedural Order No. 1.

Complainant did not submit a reply to Respondent’s response to Procedural Order No. 1.

4. Factual Background

The Parties have raised numerous issues which, in the Panel’s view, are not essential to the disposition of this dispute under the Policy, and hence the Panel will not address every factual allegation or argument raised by the Parties in this case.

Complainant is a professional Turkish sports club founded in 1903. Complainant competes in basketball, volleyball, boxing, wrestling, and soccer. According to Complainant, its soccer team is one of the leading soccer teams in Türkiye.

Complainant holds various trademark registrations for the mark KARTAL YUVASI, including Turkish Reg. Nos. 2007/14715, registered on January 23, 2009, and 2012/80509, registered on November 11, 2013.

Since April 16, 2008, Complainant has owned the domain name <kartalyuvasi.com.tr>. Complainant has used that domain name to host its commercial website offering for sale various gear and merchandise for supporters of Complainant’s sports club.

The term “kartal yuvasi” also means “eagle’s nest” in Turkish.

The Domain Name was registered by Respondent on September 15, 2013.¹ As of May 24, 2024, the

¹It appears that the Domain Name had previously been registered by another, unrelated party on April 13, 2001, and that in a prior UDRP case, *Beşiktaş Jimnastik Kulübü Derneği v. Trademark Management*, WIPO Case No. [D2012-1291](#), the panel transferred the Domain Name to Complainant. According to Complainant, it was unaware of the prior UDRP case when it filed the Complaint in this proceeding, due to the passage of time and the fact that Complainant’s management and/or ownership had changed hands in the interim. It appears further that Complainant allowed its registration of the Domain Name to lapse after the prior UDRP decision. In the Panel’s view, none of this is germane to the disposition of this case, and the Panel will not look any further into the history of the Domain

Domain Name resolved to a parking page which included hyperlinks related to soccer.

According to Respondent:

“In 2013, the Respondent founded Senkroni Turizm ve Internet Teknolojileri San. Tic. AS annex 1, where he could carry out business within the scope of Tourism and Internet activities; his principal business would be software development and also carry out other small initiatives to create extra income.”

“Before and after the incorporation, he registered high-level and high-priced projectable domain names related to tourism and the Internet. The Respondent, who has been in the IT sector since the mid-90s, attaches the most importance to selecting the domain names. The Respondent regularly followed the domain auction sites and bid on domain names related to his projects or tried to develop projects for domain names he found to be of high quality.”

Examples of other domain names Respondent registered include: <cagdas.com> (“modern” in Turkish), <ekoturizm.com> (“ecotourism”), and <koyurunleri.com> (“village products”).

Respondent asserts further:

“Between 2012 and 2018, he conducted research for various initiatives within the company’s fields of activity, such as boutique coffee roasting, wooden toy production or dropshipping, decorative product manufacturing, and so on. He conducted production tests by incurring expenses and terminated the projects when they were unsuccessful.”

“Research on coffee roasting and wooden toys continued more intensively during this period. Additionally, software development projects became quite intense. After completing these processes and moving house and company from Ankara to Bodrum, a most visited tourist city, the decorative products project returned to the agenda. Thus, he actively started preparations for the project in 2017.”

According to Respondent, one of his ideas was to sell eagle’s nests as decorations. Annexed to Respondent’s response to Procedural Order No. 1 are documents, including a receipt, showing that Respondent sold eagle’s nest decorations to customers in 2017. Also annexed to this Response is an October 29, 2017, screenshot of Respondent’s website at the Domain Name, which shows that Respondent offered for sale eagle’s nest decorations.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent asserts that he registered the Domain Name because of its generic meaning as “eagle’s nest,” and that he actually used the Domain Name for that purpose for a period of time.

Name prior to Respondent’s acquisition of it in 2013, nor to the fact that Complainant did not mention the prior UDRP case in its Complaint here.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel finds that Complainant holds rights in the trademark KARTAL YUVASI through registration and use demonstrated in the record. The Panel finds that the Domain Name is identical to that mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] 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 Panel concludes that Respondent has a legitimate interest in respect of the Domain Name. As noted above, the Domain Name translates as “eagle’s nest” in Turkish. On the record presented, it appears undisputed (especially as Complainant did not file a reply to Respondent’s response to Procedural Order No. 1) that Respondent was, for a time, actually using the Domain Name to market the eagle’s nests decorations that he was selling around that time.

This finding of legitimacy is buttressed by the fact that Respondent had registered other domain names around that time which correspond to dictionary words in the Turkish language. On this record, the Panel sees no basis to conclude that Respondent registered the Domain Name to target Complainant’s trademark or free-ride on that mark’s renown.

In sum, Respondent’s conduct vis-à-vis the Domain Name falls within the meaning of the above-quoted Policy paragraph 4(c)(i).

Complainant has not established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

Given the Panel’s conclusion above in the “Rights or Legitimate Interests” section, the Panel need not address the “bad faith” element of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Badgley, Robert A./

Badgley, Robert A.

Presiding Panelist

/Akgüloğlu, Ahmet/

Akgüloğlu, Ahmet

Panelist

/Diane Cabell/

Diane Cabell

Panelist

Date: August 20, 2024