

ADMINISTRATIVE PANEL DECISION

1141931 Ontario Inc., dba INKAS Group of Companies v. Mr. Ulugebekhon Maksumov

Case No. DAE2024-0013

1. The Parties

The Complainant is 1141931 Ontario Inc., dba INKAS Group of Companies, of Canada, represented by David Khazanski, Canada.

The Respondent is Mr. Ulugebekhon Maksumov, of United Arab Emirates (“UAE”), represented by Zak Muscovitch, Canada.

2. The Domain Name and Registrar

The disputed domain name <inkas.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2024. On July 16, 2024, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On July 17, 2024, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 25, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was August 14, 2024. The Respondent submitted a Response on August 11, 2024.

The Center appointed Jon Lang, Gerald M. Levine, and W. Scott Blackmer as panelists in this matter on September 9, 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.

4. Factual Background

The Complainant is a business corporation established under the laws of the province of Ontario, Canada in August 1995 and is based in Toronto, Canada. The Complainant designs and sells armored vehicles for international markets, subcontracting their manufacture and service, and also provides a range of cash management solutions including armored transport, ATM services, armed security, and vault storage, as well as certain environmental protection services. David Khazanski incorporated the Complainant and several affiliated companies and serves as CEO of the "INKAS Group of Companies". The Complainant operates a website at "www.inkas.ca", which refers to approximately 350 "team members" of the group working in Canada, the United States of America, Mexico, Chile, and Nigeria, with sales to companies, government agencies, and individuals "all over the world".

The members of the INKAS Group use an INKAS word mark and various figurative marks featuring the word INKAS and a drawing of a griffon holding a sword. In some versions this logo is within a shield. The Complainant states that INKAS Group companies have used the word mark and versions of the griffon logo since 1995.

The Complainant owns relevant trademark registrations including the following:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
INKAS (word)	Canada	TMA530243	July 19, 2000	IC 36, 39; insurance and financial, transportation and storage
INKAS (word)	United States	3122576	August 1, 2006	IC 6, 39, 40; metal safes, armored car transport services, custom manufacture of safes, etc.
INKAS (figurative: griffon and sword drawing over the word "INKAS", within a shield)	United States	3122577	August 1, 2006	IC 6, 39, 40; metal safes, armored car transport services, custom manufacture of safes, etc.
INKAS (figurative: griffon and sword drawing over the word "INKAS")	Mexico	1929365	September 26, 2018	IC 37: installation of armor on vehicles
INKAS (word)	WIPO (multiple designations, not including United Arab Emirates)	1572655	December 23, 2020	IC 12; armored vehicles and parts
INKAS (word)	European Union	016934606	January 25, 2023	IC 6, 12, 19, 20, 35, 36, 37, 40, 42,

				45; vaults, vehicles, concrete vaults, wholesaling and retailing of vehicles and parts, safe deposit services, maintenance and repair of vehicles and engines, fitting of armour to vehicles, custom manufacture and assembly of armoured vehicles, engineering and armoured vehicle design, armed security services, etc.
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The disputed domain name was created on September 6, 2012, and is registered to the Respondent, listing no organization, an address in Dubai, UAE, and a contact email at [...]@inkas.ae.

The disputed domain name resolves to the website (the “Inkas Armored Vehicles website”) headed with a logo of a griffon holding a sword over the words “INKAS ARMORED VEHICLES”, all within a shield. The tagline reads, “The Ultimate Protection”, displayed over videos showing armed guards, armored cars, soldiers and businessmen surviving violent attacks. The “About Us” page features the “CEO”, Mr. Maksumov (the Respondent in this proceeding) and describes Inkas Armored Vehicles L.L.C. as a company based in Dubai, UAE that has been manufacturing armored vehicles since 2012. The website also has a page describing the “Inkas Group” (the “Respondent’s Inkas Group”). The Response attaches a screenshot of the Inkas Armored Vehicles website associated with the disputed domain name in 2012. The Panel notes that archived screenshots of that website found on the Internet Archive’s Wayback Machine, dated from January 2013 onward, advertised the business of INKAS ARMORED VEHICLES, under the same figurative mark displayed on the current website and featured photos of vehicles and a building with signage reading “INKAS VEHICLES L.L.C.” in English and Arabic.

The Panel notes that the Respondent also uses two other “Inkas” domain names linked to the disputed domain name, <inkasarmor.com> and <inkas-group.com>, which are the subject of a separate, pending UDRP proceeding between the same parties.

The Respondent holds the following relevant UAE trademark registrations:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
INKAS SPECIALIZED VEHICLES (word)	UAE	187612	August 19, 2014	IC 37; vehicle armoring, repair, and maintenance services, etc.
INKAS (figurative: griffon and sword drawing over the word “INKAS”, within a shield)	UAE	187600	August 19, 2014	IC 37; vehicle armoring, repair, and maintenance services, etc.

The Response offers further details concerning the relationship between the Complainant and the Respondent. The Respondent formerly worked with the Complainant's brother, Dimitri Khazanski, at Street Group, an armored vehicle manufacturer based in UAE. The Respondent left Street Group in 2011 and began selling armored vehicles in the UAE through a company he formed called Gulf Auto Trading LLC. The Respondent had discussions with the Khazanski brothers about selling vehicles in the Middle East through Gulf Auto Trading LLC, as reflected in a 2012 email attached to the Response and a 2012 announcement sent by David Khazanski to Canadian employees concerning the "commencement of the INKAS operation in Dubai".

The Response attaches the UAE Industrial License issued on November 10, 2012, to Inkas Armored Vehicles L.L.C., listing the Respondent as the majority license holder, along with an Emirati partner, and Dimitri Khazanski as the manager. The Respondent states that he registered the disputed domain name in 2012 on behalf of Inkas Armored Vehicles L.L.C. ("Inkas Armored Vehicles") with the Complainant's knowledge, and the Response attaches email communications between the parties with the Respondent using an email address with the disputed domain name. The Response attaches documents showing that Inkas Armored Vehicles exhibited at a defense trade show in Abu Dhabi in November 2012 and applied for UAE trademark registrations in 2013, obtaining the registrations shown above. These events, as well as the launch of the website associated with the disputed domain name, occurred while the Khazanski brothers participated in the business. The Respondent contends that the Complainant agreed in 2012, when Inkas Armored Vehicles L.L.C. was established in partnership with the Khazanskis, that the Complainant would not set up another operation in the Middle East and that the Respondent could "use the INKAS name and logo indefinitely in the UAE". The Respondent acknowledges, however, that this agreement was not reduced to writing.

By 2015, the Respondent and the Khazanski brothers had fallen out, evidently still without a written agreement and with a complex history of dissatisfaction over investments, contributions, and debts. Dimitri Khazanski left the UAE. The parties have been engaged in trademark litigation in the United Kingdom, the European Union, and the UAE. These proceedings are evidently not entirely resolved, and the details have not been presented to the Panel.

Meanwhile, the Respondent's business has grown in the UAE, with over USD 150 million in sales of vehicles since 2013. The record shows that the Respondent has continued to participate in trade shows and has garnered industry and media recognition under the INKAS mark in the Middle East and internationally.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant relies on the similarity of the disputed domain name to its registered INKAS word trademarks and the "Inkas" textual element of its registered INKAS figurative trademarks. The Complainant asserts that the Respondent and his UAE entity never had permission to use the Complainant's INKAS marks and continue to "illegally" use them, damaging the Complainant and tarnishing its marks by selling "low-quality" or "counterfeit" products and "fraudulently" or "falsely insinuating" an association with the Complainant and using the Complainant's "proprietary information". The Complainant infers bad faith in an attempt to disrupt a competitor's business and misdirect Internet users for commercial gain by creating a likelihood of confusion as to source or affiliation.

B. Respondent

The Respondent acknowledges that the disputed domain name is identical or confusingly similar to the Complainant's marks but contends that it also corresponds to the Respondent's UAE marks and company

name. The Respondent argues that the parties are engaged in a business dispute over competing claims of contractual and trademark rights, but the UDRP issue is not whether the Complainant has “better” rights but simply whether the Respondent has a legitimate right or interest in the disputed domain name, citing *Borges, S.A., Tanio, S.A.U. v. James English*, WIPO Case No. [D2007-0477](#). The Respondent claims such rights based on its UAE trademark registrations and continuing business operations under a UAE industrial license, all pre-existing before the UDRP dispute.

Moreover, the Respondent denies bad faith in registering and using the disputed domain name corresponding to its company name and registered UAE marks. The Respondent argues that this is clearly not a case of cybersquatting and asserts that the Complainant has not furnished evidence for its claims concerning the Respondent’s purported use of proprietary information or the sale of “low quality products”. Rather, the two parties have been conducting business in parallel for more than a decade in separate jurisdictions and must continue to coexist or resolve their differences in a different forum.

6. Discussion and Findings

Paragraph 6(a) of the Policy provides that a complainant must demonstrate each of the following:

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

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7. ¹

The Complainant has shown rights in respect of a trademark or service mark (the registered INKAS word and figurative marks) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Panel finds that, before notice to the Respondent of the dispute, the Respondent used the disputed domain name in connection with a bona fide offering of goods or services, the businesses of Inkas Armored Vehicles, Inkas Vehicles LLC, and other enterprises operated by the Respondent, in some cases for more than a decade. [WIPO Overview 3.0](#), section 2.2.

¹In light of the substantive and procedural similarities between the uaeDRP and the Uniform Domain Name Dispute Resolution Policy (“UDRP”), the Panel has cited decisions under the UDRP and the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where appropriate.

The Panel also notes that the Respondent is associated with companies with names corresponding to the disputed domain name (including Inkas Armored Vehicles L.L.C. and Inkas Vehicles LLC) and has obtained two UAE trademark registrations in which the name “Inkas” is a dominant word element. Therefore, the Panel finds that the Respondent is commonly known by a name corresponding to the disputed domain name for purposes of the Policy. [WIPO Overview 3.0](#), section 2.3.

The Complainant suggests that the Respondent’s use of INKAS marks should be considered “illegal” and its operation of businesses in the UAE under corresponding names is not “bona fide” because it falsely implies an association with the Complainant. In fact, they were formerly associated, and they have clearly not resolved their resulting business issues, including trademark disputes. Nevertheless, the Complainant has not proven in this proceeding that the Respondent’s long-running “Inkas” business operations in the UAE are “illegal” or that the Respondent does not, in fact, hold valid UAE trademark rights antedating this domain name dispute. The Complainant may conceivably continue to challenge the Respondent’s rights to use the INKAS mark in the UAE, and to use “Inkas” in licensed company names in the UAE, but those disputes are better resolved in a different forum. On the available record, the Panel must find that the second element of the Policy has not been established.

C. Registered or is Being Used in Bad Faith

Given the Panel’s conclusion on the second element of the Complaint, it is not necessary to reach a conclusion on the third element.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking (“RDNH”) or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

The Respondent in this case did not request a finding of RDNH, but such a finding seems appropriate in the circumstances. The Complainant is represented by counsel, and it should have been obvious that the Complaint would face obstacles in establishing the second and third elements where the Respondent was formerly in business with the Complainant, had been doing business under “Inkas” names for more than 20 years (while commercial websites were operating with the disputed domain name and the Respondent was using an “Inkas” email address to communicate with the Complainant), and the Respondent had registered INKAS trademarks in the UAE. The Complaint nevertheless omitted or failed to address such material facts and instead made only conclusory allegations of fraud, counterfeiting, and misuse of proprietary information, without offering supporting evidence.

The Panel finds attempted reverse domain name hijacking in these circumstances.

7. Decision

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

/W. Scott Blackmer/

W. Scott Blackmer
Presiding Panelist

/Jon Lang/

Jon Lang

Panelist

/Gerald M. Levine/

Gerald M. Levine

Panelist

Date: September 20, 2024