

ADMINISTRATIVE PANEL DECISION

KPMG International Cooperative v. Michel Larieux, KPMG Case No. D2022-2403

1. The Parties

The Complainant is KPMG International Cooperative, Netherlands, represented by Taylor Wessing, United Kingdom.

The Respondent is Michel Larieux, KPMG¹, France.

2. The Domain Name and Registrar

The disputed domain name <kpmg-finances.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 1, 2022. On July 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 4, 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 July 5, 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 July 6, 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 July 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2022.

¹ At the time of the filing of the Complaint, the Respondent’s identity was masked by a privacy service.

The Center appointed Erica Aoki as the sole panelist in this matter on August 3, 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 has been ranked consistently for many years as one of the “Big Four” professional accounting firms in the world. Its origins span three centuries. Its current form and initials, KPMG, result from the merger between Peat Marwick International (PMI) and Klynveld Main Goerdeler (KMG) in 1987. The Complainant has therefore been using the trademark KPMG for over 30 years. The combined global revenues of the Complainant’s member firms in 2018 were USD 28.96 billion.

The Complainant’s services are provided by member firms around the world under the trademark KPMG. Member firms of the KPMG network are independent firms and affiliated with the Complainant. The Complainant’s member firms operate in approximately 147 countries, with more than 219,000 employees. The Complainant owns the trademark KPMG, such as European Union trademark registration no 1011220, registered on April 25, 2000, and licenses its use to its member firms worldwide.

The disputed domain name <kpmg-finances.com> was registered on May 25, 2022, and was used on at least one occasion to fraudulently invite a third party via email to give up confidential information and/or personal data and resolves now to an inactive website.

5. Parties’ Contentions

A. Complainant

The Complainant owns over 480 trademark registrations containing the name KPMG in several jurisdictions throughout the world. The Complainant operates the global KPMG website at the domain name <kpmg.com>. KPMG is a reputable financial services provider and has multiple dedicated sections to its various financial services offerings on its website.

The Complainant’s brand KPMG has been consistently ranked among the world’s top brands for many years. Fortune magazine has ranked KPMG among the 100 Best Companies to Work For, from 2009 to 2012 and from 2014 to 2017. Byte Level Research has ranked KPMG among the Best Global Websites from 2013 to 2015 and in 2017. In 2018 Universum ranked KPMG fifth in the World’s Top 50 Most Attractive Employers and DiversityInc ranked the company eighth in its list of Top 50 Companies.

The Complainant’s trademark rights have been recognized by several UDRP panels in at least 28 previous decisions, in successful complaints brought by the Complainant against various other respondents, dating between 2006 and 2022.

The Complainant contends that the disputed domain name is confusingly similar as it contains the trademark KPMG in its entirety, combined with the additional term “finances”, and that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

Further, the Complainant contends that the combination of the name KPMG with the suffix “finances” conveys the meaning that the disputed domain name relates to the financial services offered by or the financial performance of the Complainant.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

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

A. Identical or Confusingly Similar

Based on the facts in the present proceeding, this Panel finds that the disputed domain name identically adopts the Complainant's KPMG trademarks in which the Complainant has rights under Policy, paragraph 4(a)(i). The Complainant has established its rights in the KPMG trademarks through registration and use.

The Panel further finds that there is no doubt that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark entirely, with only the addition of the word "finances" to the KPMG trademark, which does not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization. See section 2.3 of the [WIPO Overview 3.0](#).

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has not received any authorization to use any of the Complainant's trademarks. The Respondent is using the disputed domain name opportunistically to make targeted, fraudulent emails, and has elicited confidential information and/or personal data from at least one third party. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case, *i.e.* that the Respondent has no rights or legitimate interests in the disputed domain name, under Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. The Panel finds that the Respondent has used the disputed domain name to intentionally attract Internet users by opportunistically making targeted, fraudulent emails and eliciting confidential information and/or personal data (from at least one third party). Such use is not

considered use in bad faith. See section 3.4 of the [WIPO Overview 3.0](#).

The Complainant's trademark was registered long before the registration of the disputed domain name and it is evident from the Respondent's use of the disputed domain name that the Respondent knew of the Complainant's KPMG trademark when registering the disputed domain name.

The Panel finds that it is most likely that the Respondent was aware of the Complainant's rights in the KPMG trademark at the time the disputed domain name was registered, indicating that such registration was made in bad faith.

Based on the evidence presented, the Panel also finds that the Respondent's use of the disputed domain name constitutes bad faith under Policy, paragraph 4(b)(iv).

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith under 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 <kpmg-finances.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: August 17, 2022