

ADMINISTRATIVE PANEL DECISION

Korda Developments Limited v. Yumei Ren
Case No. D2022-3730

1. The Parties

The Complainant is Korda Developments Limited, United Kingdom, represented by Birkett Long LLP, United Kingdom.

The Respondent is Yumei Ren, China.

2. The Domain Name and Registrar

The disputed domain name <kordatackleus.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 6, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 6, 2022, the Registrar 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 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 October 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 31, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on November 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 is a British company in the fishing and tackle business.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration
KORDA	3526413	United Kingdom	December 11, 2020
KORDA	1574117	International Registration	October 27, 2020
KORDA	018335735	European Union	March 3, 2021
KORDA	302020218027	Germany	June 25, 2020
KORDA THINKING TACKLE 	2299685	United Kingdom	October 11, 2002
KORDA THINKING TACKLE 	2375353	United Kingdom	March 25, 2005

The Complainant owns the domain name <korda.co.uk>, where the Complainant has continuously used the KORDA trademark since at least 2004.

The Respondent registered the disputed domain name <kordatackleus.com> on March 4, 2022, and it resolves to a website that operates an online fishing store.

5. Parties' Contentions

A. Complainant

I. Identical or Confusingly Similar

That the disputed domain name incorporates the Complainant's trademarks entirely and that, therefore, the disputed domain name is confusingly similar to the Complainant's trademarks.

That the disputed domain name incorporates the term "tackle", plus the geographic abbreviation "us".

That the Respondent infringes the Complainant's copyrights by reproducing the Complainant's protected works on the website to which the disputed domain name resolves.

That, in addition to the confusing similarity between the disputed domain name and the Complainant's trademarks, the Respondent is selling identical goods to the ones being sold by the Complainant. That, moreover, the goods being sold by the Respondent bear the Complainant's trademark, without authorization from the Complainant.

II. Rights or Legitimate Interests

That the Respondent has no trademark registrations for KORDA.

That the Respondent's use of the disputed domain name is not connected to a *bone fide* offering of goods and services.

That the Respondent is using the confusingly similar disputed domain name and website associated thereto, which features the Complainant's trademark registrations and offers infringing goods for commercial gain in order to misleadingly divert consumers and to tarnish the Complainant's trademarks.

That the Respondent effectively impersonates or suggests sponsorship or endorsement by the Complainant.

That the Respondent pretends to create an inherent affiliation between the Complainant and the content of the website to which the disputed domain name resolves, since such website features fishing accessories and tackle, just like the Complainant's official website. That, therefore, Internet users would immediately believe that said website is operated by the Complainant.

That it is unclear whether the Respondent is offering genuine goods since the Respondent is not operating in a reseller or distributor capacity. That such products are unauthorized by the Complainant.

That the Respondent has not disclosed its relationship with the Complainant, pursuant the Oki Data requirements. See section 2.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)).

III. Registered and Used in Bad Faith

That, based on the use of the disputed domain name, it is clear that the Respondent has intentionally attempted to attract for commercial gain Internet users to the website to which the disputed domain name resolves by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website.

That it is no coincidence that the Respondent is using the KORDA trademark to offer the same goods and services as the Complainant.

That, considering that the disputed domain name wholly incorporates the Complainant's trademarks, it is apparent that the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor. That, therefore, the registration of said disputed domain name was specifically made to benefit from the Complainant's reputation, in order to reap financial gains from the consumer recognition attached to the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark KORDA, as it incorporates said trademark entirely, with the addition of the term "tackle", and the ISO-3166 code for the United States of America ("United States"), "us", (see section 1.7 of the [WIPO Overview 3.0](#)).

The addition of the generic Top-Level Domain ("gTLD") ".com" to the disputed domain name constitutes a technical requirement of the Domain Name System. Therefore, it has no legal significance in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#), and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues* WIPO Case No. [D2019-0578](#)).

In light of the above, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent 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.

The Complainant has proven to be the owner of several registrations for the KORDA trademark in different jurisdictions.

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves seems to be an online store, through which fishing accessories and tackle are being sold. Therefore, and considering that the disputed domain name entirely incorporates the Complainant's trademark KORDA, plus the term "tackle", the Panel notes that the composition of the disputed domain name carries a risk of implied affiliation since Internet users may think that the website to which the disputed domain name resolves is the Complainant's official website or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#), *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#), *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#)).

Furthermore, according to the evidence submitted by the Complainant and not contested by the Respondent, the website to which the disputed domain name resolves predominantly displays the Complainant's KORDA trademark, and reproduces images of the Complainant's official products which copyrights, according to the Complainant, belong to the said Complainant. Moreover, the copyright notice displayed on said website represents that the Respondent is the rights holder of said images. This shows that the Respondent has attempted to impersonate the Complainant. A finding of impersonation prevents a determination of a *bona fide* offering of goods (see sections 2.5.1, and 2.13.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The facts of this case do not pass the *Oki Data* test. The Complainant has asserted that it is unclear whether the products offered through the website to which the disputed domain name resolves are genuine. Said website does not display a disclaimer stating that it is not related to the Complainant (see section 2.8.1 of the [WIPO Overview 3.0](#); see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); see additionally *Phiip Morris S.A. v. bprapan bpaetaa*, WIPO Case No. [D2020-3372](#), *Phiip Morris S.A. v. Rohan mubbahir Kahn*, WIPO Case No. [D2021-1314](#), and *Prime Hydration, LLC v. Registration Private, Domains By Proxy, LLC / Amman Ahmed*, WIPO Case No. [D2022-1918](#): “Certain geographic terms (e.g., <trademark-usa.com>, or <trademark.nyc>), or terms with an “inherent Internet connotation” (e.g., <e-trademark.com>, <buy-trademark.com>, or <trademark.online>) are seen as tending to suggest sponsorship or endorsement by the trademark owner”).

The website to which the disputed domain name resolves predominantly displays the Complainant’s trademarks including their logos, and images of the Complainant’s official products that seem to have been reproduced from the Complainant’s site. Moreover, said website displays copyright notices claiming rights to the Complainant’s images. This shows that the Respondent has attempted to impersonate the Complainant. In addition, the Panel notes that the composition of the disputed domain name (with added terms such as “tackle”, and the ISO-3166 code for the United States, “us”,) carries a risk of implied affiliation since Internet users may think that the website to which this disputed domain name resolves belongs to an official or endorsed distributor or dealer of the Complainant in said territory (see sections 2.5.1, and 2.13.1 of the [WIPO Overview 3.0](#)).

Additionally, the Complainant has asserted that it is unclear from the website at the disputed domain name if the goods on offer are genuine goods of the Complainant. If that is case, the consensus view among panels appointed under the Policy is that the use of a domain name for illegal activity, such as the sale of counterfeits, impersonation, or passing off, cannot confer rights to, or legitimate interests in a domain name (see section 2.13.1 of the [WIPO Overview 3.0](#), see also *Richemont International SA v. brandon gill*, WIPO Case No. [D2013-0037](#)).

Therefore, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

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

Considering that KORDA is a fanciful trademark that does not correspond to a dictionary word, it is safe to infer that said trademark is highly distinctive.

The fact that the Respondent chose to register the disputed domain name, which resolves to a website that offers the same products that the Complainant sells, and which displays unauthorized reproductions of images which belong to the Complainant, suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name, and that the Respondent has targeted the Complainant (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly, supra* (“According to Complainant, this reproduction of Complainant’s copyright material was unauthorized, and therefore, illegitimate. It is clear that this use of the Disputed Domain Name is an attempt to impersonate Complainant.”), *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#) (“The Complainant claims that the Respondent has infringed its copyright. That seems probable. However, the Panel is unconvinced that copyright infringement *per se* necessarily leads to a finding of bad faith. In cases where there is full scale reproduction of another’s site there may well be both copyright infringement and bad faith but it is the unauthorized (sic.), unjustified and wholesale impersonation that justifies the bad faith finding.”), *L’Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#)).

These facts also show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website by creating the impression among Internet users that the website to which the disputed domain name resolves is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#)). According to the evidence submitted by the Complainant, the Respondent has used the disputed domain name in an attempt to impersonate the Complainant for commercial gain, which also constitutes bad faith under the Policy (see *1IQ PTY LTD v. 1337 Services LLC*, WIPO Case No. [D2017-2156](#) (“It follows from this and the conclusions as to impersonation so far as rights and legitimate interests is concerned, that the Domain Name was also both registered and used in order to unfairly impersonate the Complainant and its mark and therefore in bad faith”)).

Therefore, the third element of the Policy has been met.

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 <kordatackleus.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: November 17, 2022