

ADMINISTRATIVE PANEL DECISION

King Abdullah Financial District Management and Development Company v.
Sami Almuqbel, Rmady
Case No. D2022-4298

1. The Parties

The Complainant is King Abdullah Financial District Management and Development Company, Saudi Arabia, represented by Clyde & Co., United Arab Emirates.

The Respondent is Sami Almuqbel, Rmady, Saudi Arabia.

2. The Domain Names and Registrar

The disputed domain names <ikafd.com>, <ikafd.net> and <kafd.info> are registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 11, 2022. On November 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 11, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Whois Agent (104282371), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 14, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On November 17, 2022, the Center received a communication from the Respondent.

The Complainant filed an amended Complaint on November 25, 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 November 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2022. No Response was filed.

Accordingly, the Center notified the Parties that it would proceed to Panel appointment.

On December 22, 2022, the Center received a communication from the Respondent.

The Center appointed Adam Taylor as the sole panelist in this matter on January 5, 2023. 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, which is owned by the Public Investment Fund, the sovereign wealth fund of Saudi Arabia, manages the King Abdullah Financial District in Riyadh, also known by the acronym "KAFD". This development has been promoted since 2007.

The Complainant owns a number of registered trade marks for KAFD including Saudi Arabian Registration No. 1441004520, filed on October 10, 2019, registered on January 30, 2020, in class 35.

The Complainant operates a website for the development at "www.kafd.sa".

The disputed domain name <kafd.info> was registered on March 9, 2013. The disputed domain names <ikafd.com> and <ikafd.net> were registered on January 16, 2014.

The disputed domain name <kafd.info> resolves to a homepage headed "Explore Riyadh!", followed by a list of business category links, such as "International Schools", "Taxi Apps", "Car Rental Agencies" etc., leading to pages with listings of a range of businesses within the relevant category. Beneath this menu on the homepage, there is a prominent photograph of the Complainant's development, captioned "King Abdullah Financial District (KAFD), Riyadh" as well as some information about the project.

When viewed by the Panel on January 17, 2023, the disputed domain names <ikafd.com> and <ikafd.net> resolved to parking pages with assorted pay per click ("PPC") links, apparently unrelated to the Complainant or its development.

The Respondent did not reply to the Complainant's cease and desist letter dated October 11, 2022.

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The Complainant's development and related trade marks are well-known in Saudi Arabia.

The disputed domain name <kafd.info> is identical to the Complainant's KAFD trade mark.

The disputed domain names <ikafd.com> and <ikafd.net> are confusingly similar to the Complainant's trade mark, as they differ only by addition of the letter "i", which is not a dominant element of the respective domain names and can allude to the descriptive word "information".

The Respondent lacks rights or legitimate interests in the disputed domain names.

The Complainant has not authorised the Respondent to register the disputed domain names or to use its trade mark on related websites.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names. On the contrary, the Respondent is profiting by advertising third party services, which have no connection with the Complainant's development as well as by riding on the Complainant's goodwill and/or creating a likelihood of confusion with the Complainant's mark.

There is no doubt that the Respondent is aware of the Complainant's KAFD development and trade marks, given the Respondent's location in Riyadh and the references to the development on the Respondent's website.

The above also constitutes registration and use of the disputed domain names in bad faith.

B. Respondent

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

In its email of December 22, 2022, the Respondent stated simply that the disputed domain names were not using the KAFD trade mark or claiming to represent KAFD, and that the Respondent was operating a website giving general information about KAFD.

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established registered rights in the mark KAFD, as well as unregistered trade mark rights deriving from the Complainant's use of that mark.

Disregarding the Top-Level Domain ("TLD") suffix, which is excluded from the comparison, the disputed domain name <kafd.info> is identical to the Complainant's trade mark.

As regards the disputed domain names <ikafd.com> and <ikafd.net>, section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") makes clear that, where the relevant trade mark is recognisable within the disputed domain name, the addition of other terms, whether descriptive, meaningless, or otherwise, would not prevent a finding of confusing similarity under the first element.

Here, the disputed domain names <ikafd.com> and <ikafd.net> consist of the Complainant's distinctive trade mark, which remains recognisable within the disputed domain names, plus the prefix "i", which does not prevent a finding of confusing similarity as explained above.

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

B. Rights or Legitimate Interests

As explained in section 2.1 of [WIPO Overview 3.0](#), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances, which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, for reasons explained in section 6C below, the Panel considers that the Respondent has used the disputed domain names intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's goods and/or services. Such use of the disputed domain names could not be said to be *bona fide*.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, notwithstanding that the disputed domain names postdate the Complainant's registered trade mark, it is obvious that, at the time of registration of the disputed domain names, the Respondent was aware of the Complainant's use of the mark KAFD, given that: the disputed domain names reflect the distinctive name/acronym by which the development was known; the Respondent is located in Riyadh; and the homepage of the Respondent's website at the disputed domain name <kafd.info> includes a photograph of, and information about, the Complainant's development, which the Respondent itself describes as "KAFD".

The Respondent has not filed a formal response but has emailed the Center claiming that the disputed domain names were not using or representing the Complainant's trade mark and that its website at the disputed domain name <kafd.info> was merely "giving general info about KAFD".

However, as explained in section 4 above, the website at the disputed domain name <kafd.info> is being used for more than merely providing information about the Complainant's development, in that the site also provides listings for a wide range of businesses in Riyadh that are unrelated to the Complainant. It is difficult to conceive of a reason why the Respondent would have selected a domain name comprising the Complainant's mark to provide such a listings service, which is plainly commercial in nature, other than to attract Internet users by giving the impression that its website was connected with the Complainant's prestigious development.

Not only does the disputed domain name <kafd.info> carry a high risk of implied affiliation with the Complainant as it is identical to the Complainant's trade mark - see section 2.5.1 of the [WIPO Overview 3.0](#) - but the home page carries a large photograph of the development below the business categories menu, thereby reinforcing the apparent connection with the Complainant.

Accordingly, the Panel considers that the Respondent has intentionally attempted to attract Internet users to its website at the disputed domain name <kafd.info> for commercial gain by creating a likelihood of confusion with the Complainant's trade mark in accordance with paragraph 4(b)(iv) of the Policy.

The same applies to the parking pages with PPC links at the disputed domain names <ikafd.com> and <ikafd.net>. Section 3.5 of [WIPO Overview 3.0](#) makes clear that respondents cannot disclaim responsibility for “automatically” generated pay-per-click links on their websites and that neither the fact that such links are generated by a third party such as a registrar, nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.

The Panel also notes that the disputed domain names <ikafd.com> and <ikafd.net> were registered some ten months or so after the disputed domain name <kafd.info>, and were likely acquired for a similar illicit purpose.

For the above reasons, the Panel considers that the Complainant has established the third element of paragraph 4(a) of the Policy.

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 names, <ikafd.com>, <ikafd.net> and <kafd.info> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: January 19, 2023