

ADMINISTRATIVE PANEL DECISION

Khadi & Village Industries Commission v. 廖高练
Case No. D2022-4608

1. The Parties

The Complainant is Khadi & Village Industries Commission, India, represented by Fidus Law Chambers, India.

The Respondent is 廖高练, China.

2. The Domain Name and Registrar

The disputed domain name <yuvakhadi.com> (the “Disputed Domain Name”) is registered with Eranet International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 2, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 5, 2023, 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 December 8, 2023 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 December 9, 2023.

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 December 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 6, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on January 16, 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 is a statutory body formed in April 1957 by the Government of India in accordance with an Act passed by the Indian Parliament, namely, the Khadi and Village Industries Commission Act of 1956. The Head Office of the Complainant is in Mumbai and its six zonal offices are in different parts of the country. As an apex organization under the Ministry of Micro, Small and Medium Enterprises, the Complainant is engaged in the promotion and development of products under the KHADI trademark.

The Complainant is the owner of a large number of trademark registrations for the KHADI trademark including, *inter alia*, Indian Trademark Registration No. 2851524 for KHADI, registered on November 27, 2014; Indian Trademark Registration No. 3863679 for KHADI INDIA, registered on June 19, 2018; Indian Trademark Registration No. 2854718 for KHADI INDIA, registered on December 2, 2014; International Trademark Registration No. 1272626 for KHADI, registered on December 2, 2014 (the "Complainant's Trademark"). The Complainant's Trademark has been continuously used to promote and develop its KHADI brand. The Complainant has thus obtained an exclusive right to the Complainant's Trademark through extensive use.

The Disputed Domain Name was registered on June 29, 2022, and is currently linked to a website hosting obscene content and containing hyperlinks to third party gambling and pornography-related websites.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarized as follows:

- (a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The only element which differentiates the Disputed Domain Name from the Complainant's Trademark is the addition of the generic term of "yuva", which means "youth" in Hindi, and the Top-Level Domain ".com" to read <yuvakhadi.com>.
- (b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Disputed Domain Name is linked to a website hosting obscene content and containing hyperlinks to third party gambling and pornography related websites. The Disputed Domain Name is being used for illegal purposes and there is no evidence of the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or service. The Complainant has never licensed, authorized, or otherwise permitted the Respondent to register a domain name incorporating the Complainant's Trademark, nor to make any use of the Complainant's Trademark.
- (c) Both the Respondent's registration and its use of the Disputed Domain Name establish the Respondent's bad faith. Given the reputation and the distinctive character of the Complainant's Trademark, the Respondent must have been aware of the Complainant's Trademark and the Respondent's registration of the Disputed Domain Name, which completely incorporates the Complainant's Trademark, is indicative of bad faith.

The Respondent is using the Disputed Domain Name to host gambling and pornography content on the website. The Respondent's use of the Disputed Domain Name demonstrates that the purpose of the registration and use of the Disputed Domain Name is solely to capitalize on the reputation and goodwill

associated with the Complainant's Trademark to mislead consumers for commercial gain, and is in itself an act of bad faith by someone with no legal connection to the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See Section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "yuva", which means "youth" in Hindi. UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not alter the fact that the domain name at issue is confusingly similar to the mark in question. See Section 1.8 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the term "yuva" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent, which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See Section 2.1 of the [WIPO Overview 3.0](#).

The Respondent did not submit a Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complaint as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) 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 trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel finds that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use, noting in particular that the Complainant's Trademark would not likely be adopted by the Respondent other than for the purpose of creating an impression that the Disputed Domain Name is associated with the Complainant or otherwise taking advantage of the goodwill of the Complainant's Trademark. In this regard, the Panel also notes the nature of the Disputed Domain Name, being identical or confusingly similar to the Complainant's Trademark, carries a high risk of implied affiliation. See Section 2.5.1 of the [WIPO Overview 3.0](#).

In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity (particularly domain names which incorporate a mark plus a descriptive term) can already by itself create a presumption of bad faith. See Section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be fairly well known. A quick Internet search conducted by the Panel shows that most of the search results returned for the keyword "khadi" are the Complainant's KHADI products and third party's websites providing information relating to the Complainant. Therefore, taking the Complainant's reputation and the distinctive character of the Complainant's Trademark into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "yuva", the Respondent must have been aware of the Complainant and the rights in the Complainant's Trademark when registering the Disputed Domain Name.

The Panel also finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

- (i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.
- (ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of the term "yuva"), and is used to attract, for commercial gain, Internet users to third party gambling and pornography sites, which are completely unrelated to the Complainant and its business.

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <yuvakhadi.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: January 30, 2023