

ADMINISTRATIVE PANEL DECISION

Kuomiokoski Oy v. Client Care, Web Commerce Communications Limited
Case No. D2022-4765

1. The Parties

The Complainant is Kuomiokoski Oy, Finland, represented by Backström & Co Ltd., Attorneys-at-Law, Finland.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <kuomasaapad.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2022. On December 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 15, 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 December 15, 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 amendment to the Complaint on December 16, 2022.

The Center verified that the Complaint together with the amendment to 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 December 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on January 12, 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 shoe and kid's outerwear manufacturer founded in 1928, having around 100 employees in Finland and offering, among others, shoes and boots under the trademark KUOMA.

The Complainant owns the European Union Trade Mmark KUOMA (no. 001913995, registered on March 25, 2002).

The Complainant markets its products under the domain name <kuoma.fi>.

The disputed domain name was registered on October 27, 2022.

The disputed domain name resolves to a website offering shoes and boots under the KUOMA trademark.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the KUOMA trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the descriptive word "saapad" (which means "boots" in Estonian language) is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use its trademark KUOMA. The content on the website posted by the Respondent under the disputed domain name is copied from the Complainant's website "www.kuoma.fi". Before any notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. The Complainant doubts that any original KUOMA products can be purchased from the Respondent's website in question and suspects that the Respondent's website in question is used for illegal purposes and activities.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its trademark KUOMA at the time it registered the disputed domain name, and because the content on the website posted by the Respondent under the disputed domain name is copied without permission from the Complainant's website "www.kuoma.fi".

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns a trademark registration for its KUOMA trademark.

The Panel notes that the disputed domain name incorporates the KUOMA trademark in its entirety. The addition of the word “saapad” (which means “boots” in Estonian language) does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark KUOMA.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that it has not authorized the Respondent to use the trademark KUOMA and that the Respondent’s use of the disputed domain name was not in good faith, considering that content on the website posted by the Respondent under the disputed domain name is copied from the Complainant’s website “www.kuoma.fi”. The Complainant doubts that any original KUOMA products can be purchased from the Respondent’s website in question and suspects that this website is used for illegal purposes and activities.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

In the view of the Panel, it is clear that the Respondent had knowledge of the Complainant’s trademark when it registered the disputed domain name, as evidenced by the fact that the website posted by the Respondent under the disputed domain name offers shoes and boots under the trademark KUOMA. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has further shown that the content on the website posted by the Respondent under the disputed domain name is identically copied from the Complainant’s website “www.kuoma.fi”, without authorization. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) 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 <kuomasaapad.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: January 20, 2023