

ADMINISTRATIVE PANEL DECISION

Koppers Inc., Koppers Delaware, Inc. v. Andrew Anderson
Case No. D2023-0257

1. The Parties

Complainants are Koppers Inc., United States of America, and Koppers Delaware, Inc., United States of America, represented by Metz Lewis Brodman Must O’Keefe LLC, United States of America.

Respondent is Andrew Anderson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <koppers-inc.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 January 19, 2023. On January 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 20, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainants on January 23, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainants filed an amended Complaint on January 23, 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 Respondent of the Complaint, and the proceedings commenced on January 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 16, 2023.

The Center appointed Timothy D. Casey as the sole panelist in this matter on February 27, 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 Complainants in this administrative proceeding are Koppers Inc. and Koppers Delaware, Inc, (hereinafter referred to together as “Complainant”). Koppers Delaware, Inc., is the owner of six trademark registrations in the United States of America for KOPPERS or incorporating KOPPERS in a design (the “KOPPERS Marks”) and Koppers Inc. and its subsidiaries are the exclusive users of the KOPPERS Marks. Complainant has used the KOPPERS Marks related to chemicals, chemical processing, wood preservation, wood preservation products, and wood products as early as 1921. The KOPPERS Marks include the following:

Mark	Designation	Class(es)	Registration No.	Registration Date
KOPPERS	United States of America	4, 19	1,919,197	September 19, 1995
KOPPERS	United States of America	19	1,902,735	July 4, 1995
KOPPERS	United States of America	1, 2, 4	1,940,412	December 12, 1995
KOPPERS (Design)	United States of America	1, 2, 4, 17, 19	3,085,821	April 25, 2006
KOPPERS	United States of America	40	3,156,761	October 17, 2006
KOPPERS (Design)	United States of America	17	4,409,596	October 1, 2013

The disputed domain name was registered January 11, 2023.

Complainant provided evidence showing that the disputed domain name was used multiple times on January 13, 2023, in email communications that fraudulently identified an employee of Complainant, and that were sent to a vendor and/or potential vendor of Complainant in an attempt to purchase laptop computers.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is essentially identical and/or confusingly similar to the KOPPERS Marks because it incorporates the entirety of the KOPPERS Marks and merely adds the suffix “-inc”, which does not negate the confusing similarity.

Complainant contends that Respondent has no right or legitimate interest in the disputed domain name because Complainant has not granted any permission to Respondent’s use of the disputed domain name and the disputed domain name has no connection with a *bona fide* offering of goods or services. Complainant alleges Respondent has not been commonly known by a name consisting in whole or in part of the KOPPERS Marks and could not without authorization from Complainant and that Respondent is not an agent or licensee of Complainant. Complainant further contends that Respondent is not making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, because the disputed domain name is misleading and is being used to deceive consumers.

Complainant contends the disputed domain name was registered to intentionally attempt to impersonate, for commercial gain, an employee of Complainant in order to maliciously communicate with a potential vendor by creating a likelihood of confusing with the KOPPERS Marks as to the source, sponsorship, affiliation, or endorsement of Respondent’s email accounts or location.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant's use of the KOPPERS Marks and registrations are more than sufficient to establish that Complainant has trademark rights in the KOPPERS Marks.

Complainant contends that the disputed domain name is identical and/or confusingly similar to the KOPPERS Marks. Complainant contends that the addition of the suffix "-inc" in the disputed domain name does not prevent a finding of confusing similarity to Complainant's KOPPERS Marks.

The Panel agrees and finds that the disputed domain name is confusingly similar to the KOPPERS Marks.

B. Rights or Legitimate Interests

The Panel finds that Respondent has no rights or legitimate interests in the disputed domain name. Respondent does not appear to be commonly known by the disputed domain name. Complainant has not licensed or authorized Respondent to use the KOPPERS Marks. Regardless of what Respondent's exact intention may have been in contacting a third party under false pretenses using the disputed domain name, use of the disputed domain name to impersonate Complainant's employee in this manner alone is sufficient to support the Panel's conclusion that Respondent's use was not a legitimate noncommercial or fair use and does not constitute a *bona fide* offering of goods or services. Respondent has not rebutted Complainant's *prima facie* case and has provided no arguments or evidence showing potential rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the KOPPERS Marks and adding the suffix "-inc" related to Complainant's organizational status, carries a risk of implied affiliation with Complainant as it effectively impersonates or suggests sponsorship or endorsement by Complainant, and accordingly cannot constitute a fair use in these circumstances. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Finally, Complainant has provided evidence that the disputed domain name is being used in connection with a potentially fraudulent scheme via emails; such use can never confer rights or legitimate interests on Respondent. See in this regard section 2.13 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given i) the timing of Complainant's first use of some of the KOPPERS Marks in 1921 and the first registration of the KOPPERS Marks, predating registration of the disputed domain name by almost 30 years, and Complainant's use of the KOPPERS Marks in association with the noted goods, ii) the misleading nature of the disputed domain name in combination with fraudulent emails that appear designed to trick third party's into believing some affiliation with Complainant, and iii) the timing of the registration of the disputed domain name and use of the disputed domain name within days to carry out the fraudulent emails, indicates that Respondent had clear knowledge of the KOPPERS Marks and Complainant's business prior to registration.

The Panel finds that Respondent's registration of the disputed domain name was in bad faith.

In addition, the Panel finds the subsequent apparently fraudulent usage of the disputed domain name and the sending of email communications impersonating an employee of Complainant, to constitute use in bad faith consistent with paragraph 4(b)(iv) of the Policy.

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

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, <koppers-inc.com>, be transferred to Complainant Koppers Inc.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: March 15, 2023