

ADMINISTRATIVE PANEL DECISION

The Knowledge Academy Holdings Limited v. Fal Pandya Case No. D2023-0877

1. The Parties

The Complainant is The Knowledge Academy Holdings Limited, United Kingdom, represented by Michelmores LLP, United Kingdom.

The Respondent is Fal Pandya, United States of America (the “United States”).

2. The Domain Name and Registrar

The disputed domain name <indiaknowledgeacademy.org> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2023. On February 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 28, 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 (Unknown Persons) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 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 March 13, 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 March 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2023. The Center received email communications from the Respondent on March 13 and 16, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on April 25, 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 company registered in England and Wales and incorporated on July 4, 2013. It is the holding company of The Knowledge Academy Limited, which was incorporated in 2009 and is a provider for training solutions to corporate, public sector, multinational organisations, and private individuals. It provides its training courses globally and has trained over 1 million delegates so far, many of them members of internationally well-known entities (Annex 4 to the Complaint).

The Complainant is the owner of the THE KNOWLEDGE ACADEMY trademark, which is registered in various jurisdictions, including in the United States, where the Respondent is reportedly located (Annex 2 to the Complaint). Among others, the Complainant is the owner of the United States Trademark No. 5,398,327 for THE KNOWLEDGE ACADEMY, registered on February 6, 2018, for goods and services in Classes 9, 16, 35, and 41.

The Complainant further owns and operates various domain names comprising its THE KNOWLEDGE ACADEMY trademark, such as <theknowledgeacademy.com> and <theknowledgeacademy.co.uk> (Annex 3 to the Complaint).

The disputed domain name was registered on February 20, 2023 and resolves to a default website of the Registrar (Annex 5 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name confusingly similar to its THE KNOWLEDGE ACADEMY trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondents did not submit any formal response. However, the Center received informal email communications on March 13 and 16, and April 25, 2023.

In its short email communication of March 13, 2023, the Respondent merely stated (without further argumentation or supporting documents) that it believes that the disputed domain name is distinctly different than the Complainant's trademark. Further, the Respondent alleged that its main purpose is to use the disputed domain for teaching about the ancient civilization of India.

In its email communications of March 16 and April 25, 2023, the Respondent merely indicated that it wishes to discuss the case. Even though its further email communications were replied by the Center, the Respondent did not provide any formal response on the Complainant's contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the THE KNOWLEDGE ACADEMY trademark (Annex 2 to the Complaint).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's THE KNOWLEDGE ACADEMY trademark. As stated at sections 1.7 and 1.8 of the [WIPO Overview 3.0](#), where at least the dominant features of the relevant mark are recognizable within the disputed domain name, the omission and/or addition of other terms would normally not prevent a finding of confusing similarity.

In the present case, the disputed domain name comprises the distinctive elements "knowledge" and "academy" of the Complainant's trademark, while the article "the" is replaced by the country name "India". In the Panel's view, this replacement does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's THE KNOWLEDGE ACADEMY trademark, as the Complainant's trademark is still easily recognizable within the disputed domain name.

The Panel also notes that the generic Top-Level Domain ".org" may, as a general principle, be disregarded when assessing identity or confusing similarity between a domain name and a trademark, see [WIPO Overview 3.0](#), section 1.11.1.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel

agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's THE KNOWLEDGE ACADEMY trademark in a confusingly similar way within the disputed domain name.

In the absence of a formal Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name.

The Respondent's brief allegation in its email communication of March 13, 2023, that it intends to use the disputed domain name for teaching on the "ancient civilization of India" is assessed by the Panel as a merely self-serving and unfounded assertion by the Respondent. The Respondent did not provide anything that could support such finding, even though it was given the opportunity to do so.

Rather, the Panel believes that the nature of the disputed domain name indicates the Respondent's intention to benefit from a created risk of affiliation or association with the Complainant and its THE KNOWLEDGE ACADEMY trademark.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith, for the following reasons.

The Panel believes that the Respondent must have had the Complainant's trademark in mind when registering the inherently misleading disputed domain name just recently in 2023. At the date of registration, the Complainant's THE KNOWLEDGE ACADEMY trademark was already registered, used, and widely known, including in the United States, where the Respondent is reportedly located. Therefore, the Panel concludes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users and/or to freeride on the goodwill of the Complainant's THE KNOWLEDGE ACADEMY trademark.

Furthermore, the Panel finds that the Respondent is using the disputed domain name in bad faith, even though the disputed domain name is linked to a default page of the Registrar only (Annex 5 to the Complaint). In line with the opinion of numerous UDRP panels before (e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)) and section 3.3 of the [WIPO Overview 3.0](#), the Panel believes that the non-use of a domain name does not prevent a finding of bad faith use.

Applying the passive holding doctrine as summarized in section 3.3 of the [WIPO Overview 3.0](#), the Panel assesses the Complainant's THE KNOWLEDGE ACADEMY as sufficiently distinctive, so that any good-faith use of the Complainant's trademark in the disputed domain name (being the mark plus a geographical term) by the Respondent appears to be unlikely. The Respondent's brief and unsubstantiated allegation (with no evidence) in its email communication of March 13, 2023, that it intends to use the disputed domain for teaching about the ancient civilization of India, is assessed by the Panel as a self-serving assertion only. In this regard, the Panel particularly accepts the failure of the Respondent to submit a substantive response to the Complainant's contentions as an indication for bad faith. The Panel is convinced that, if the Respondent had legitimate purposes in registering and using the disputed domain name, it would have substantially responded.

Taking the facts of the case into consideration, the Panel concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) 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 name <indiaknowledgeacademy.org> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: May 9, 2023