

ADMINISTRATIVE PANEL DECISION

CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2023-0902

1. The Parties

The Complainant is CK Franchising, Inc., United States of America (“United States”), represented by Areopage, France.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <comfortkeepers.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 (Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 2, 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 amended Complaint on March 3, 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 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 27, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on March 29, 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, founded in 1998, is a company providing in-home care for seniors and adults who need assistance at home. In 2009 the Complainant was purchased by SODEXO, one of the world's leading food and facilities management services companies and a global leader in the health care and seniors markets. SODEXO is serving over 100 million consumers in over 56 countries each day.

The Complainant has more than 700 offices worldwide, available in 13 countries and it has been named one of the fastest growing franchise systems by INC. Magazine. The Complainant's franchise system includes a large, global network and is a part of a culture of care.

COMFORT KEEPERS created the National Day of Joy in 2019 and has received numerous awards and accolades in its industry.

The Complainant holds trademark registrations for COMFORT KEEPERS, such as the following:

- the United States Trademark Registration No. 2366096 for the words COMFORT KEEPERS, filed on March 25, 1999, and registered on March 28, 2000, covering services in the International Class 42; and
- the European Union Trademark Registration No. 004210456 for the words COMFORT KEEPERS, filed on December 16, 2004, and registered on January 19, 2006, covering services in the International Classes 39, 43 and 45.

The Complainant operates its official website at <comfortkeepers.com>.

The disputed domain name was registered on February 20, 2023, and, at the time of filing the Complaint, it was used in connection with pay-per-click ("PPC") pages with sponsored links.

The Respondent is a serial cybersquatter involved in more than 260 UDRP disputes involving more than 400 domains, including in relation to Complainant's trademark COMFORT KEEPERS. See for example: *CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0751](#) regarding the domain name "comfotkeepers.com"; *CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO case No. [D2022-4247](#) regarding the domain name "ccomfortkeepers.com"; or *In Corning Incorporated v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-4225](#), and findings therein.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its well known trademark and domain name; the Respondent has no rights or legitimate interests in the disputed domain name; and the Respondent registered and is using the disputed domain name in bad faith. Furthermore, the Respondent has been involved in numerous UDRP disputes, including three in relation to the Complainant's COMFORT KEEPERS trademark. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the COMFORT KEEPERS trademark.

The disputed domain name <comfortkeepers.com> incorporates the Complainant's trademark, with one letter "e" deleted in the double vowel E.

However, numerous UDRP panels have considered that a domain name consisting of a misspelling of the complainant's trademark (*i.e.*, typosquatting) does not prevent a finding of confusing similarity. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (*e.g.*, ".com", ".info", ".org") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark COMFORT KEEPERS, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that it has given no license or other right to use its trademark to the Respondent, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

In line with the case law, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant's

contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case. There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

According to the records before it, the Respondent has used the disputed domain name in connection with a parking page displaying PPC links. UDRP panels have constantly found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's marks or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant has been operating since 1998, promotes its business under the trademark COMFORT KEEPERS since at least 1999 and has acquired reputation in its industry.

The disputed domain name was registered in 2023 and incorporates the Complainant's distinctive mark with an obvious typo.

From the above, the Panel finds that the Respondent was aware of the Complainant, its business, and trademark at the registration of the disputed domain name.

At the time of filing the Complaint, the disputed domain name resolved to a page providing PPC links promoting various goods and services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's well-known trademark with an obvious alteration in order to get traffic on its web portal and to misleadingly divert Internet users to third parties websites, and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. This activity may also disrupt the Complainant's business and tarnish its trademark.

According to the amended Complaint, as detailed in Section 4 above, the Respondent appears to be a serial cybersquatter, being involved in more than 260 UDRP disputes, including at least three disputes in relation to Complainant's trademark. Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. See section 3.1.2 of the [WIPO Overview 3.0](#).

The Respondent has not participated in the present proceeding and provided inaccurate contact information in the WhoIs. Such facts, together with all the other elements in this case, supports, in the eyes of this Panel, a finding of bad faith behavior.

Furthermore, it was consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a third party's famous or widely-known trademark can create, by itself, a presumption of bad faith for the purpose of Policy.

See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <comfortkeepers.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: April 12, 2023