

## **ADMINISTRATIVE PANEL DECISION**

Hetsen & Klaver B.V. v. Manlidy, GNN  
Case No. D2023-1971

### **1. The Parties**

The Complainant is Hetsen & Klaver B.V., Netherlands, represented by Rise NL, Netherlands.

The Respondent is Manlidy, GNN, Singapore.

### **2. The Domain Name and Registrar**

The disputed domain name <hklivinghome.com> (the “Domain Name”) is registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2023. On May 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 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 May 8, 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 May 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 16, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 22, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant operates in the home furnishing industry, manufacturing, marketing, and selling worldwide furniture, lighting, ceramics, textile, art, and interior accessories.

The Complainant owns numerous trademark registrations for HKLIVING, such as Benelux Trademark Registration No. 1431838 registered on April 13, 2021, and International Trademark Registration No. 1611688 registered on April 12, 2021. The latter designates several countries, including Singapore where the Respondent appears to be situated.

The Complainant owns several domain names that incorporate its trademark, such as <hkliving.nl> and <hkliving.com>.

All above mentioned trademarks and domain names are registered before the Respondent registered the Domain Name on February 17, 2023. At the time of the Complaint, and at the time of drafting the Decision, the Domain Name resolved to a website that advertises and sells products identical to the goods of the Complainant. The Respondent's website uses the Complainant's logo and images.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant provides evidence of trademark registrations and argues that the Domain Name is identical and/or confusingly similar to the Complainant's trademark. The Domain Name consists of the Complainant's trademark and "home". "Home" is a generic English word that implies products for home decoration purposes.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not been commonly known by the Domain Name. The Respondent has not provided any evidence of *bona fide* use of, or demonstratable preparations to use, the Domain Name in connection with any legitimate offering of goods or services. The use is evidence of bad faith.

The Complainant argues the Respondent most likely was aware of the Complainant's trademark and business when the Respondent registered the Domain Name. The Respondent deliberately designed its website to confuse Internet users into thinking that the website to which it resolves, or the products being sold there are, the Complainant's products, or that the website is somehow affiliated with or endorsed by the Complainant. The Respondent deliberately designed its website to confuse users, suggesting that they were buying directly from the Complainant. The Respondent's website features the Complainant's trademark and logo without permission. It also reproduces images, product, and brand descriptions of the websites of the Complainant and the Complainant's official distributors.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark HKLIVING. The Domain Name incorporates the trademark in its entirety, with the addition of “home”. The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a Domain Name. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name is not *bona fide*, rather evidence of bad faith, see below.

The Panel finds the nature of the Domain Name carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The composition and use of the Domain Name, and the fame of the Complainant’s trademark, makes it evident that the Respondent was aware the Complainant and its prior rights when the Respondent registered the Domain Name. The Respondent chose the Domain Name because of its similarity with the Complainant’s trademark. The use of the Domain Name, as described above, is clear evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <hklivinghome.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: July 6, 2023