

## **ADMINISTRATIVE PANEL DECISION**

CK Franchising, Inc. v. willson comb

Case No. D2023-3158

### **1. The Parties**

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

The Respondent is willson comb, United States.

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

The disputed domain name <comfortkeepers.works> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 24, 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 the Complainant on July 25, 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 July 27, 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 August 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on September 4, 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

Since 1998, the Complainant has, under the COMFORT KEEPERS mark, provided in-home care for seniors and adults who need assistance at home medical care.

The Complainant offers in-home care services to thousands of seniors every day and has more than 700 offices worldwide.

The Complainant owns the following registered marks:

COMFORT KEEPERS, European Union Trade Mark registration No. 009798001 filed on March 9, 2011 and registered on August 22, 2011 in international classes 10, 38 and 44, duly renewed;

COMFORT KEEPERS, European Union Trade Mark registration No. 004210456 filed on December 16, 2004 and registered on January 19, 2006 in international classes 39, 43 and 45, duly renewed;



European Union Trade Mark registration No. 004210481 filed on December 16, 2004 and registered on January 19, 2006 in international classes 39, 43 and 45, duly renewed;

COMFORT KEEPERS, United States trademark registration No. 2366096 filed on March 25, 1999, registered on July 11, 2000 in international class 42 and duly renewed;



United States trademark registration No. 2335434 filed on March 9, 1999, registered on March 28, 2000 in international class 42 and duly renewed;

I AM A COMFORT KEEPER, United States trademark registration No. 3172466 filed on June 8, 2005, registered on November 14, 2006 in international class 45 and duly renewed;

WE ARE COMFORT KEEPERS, United States trademark registration No. 3172467 filed on June 8, 2005, registered on November 14, 2006 in international class 45 and duly renewed;

BE A COMFORT KEEPER, United States trademark registration No. 3258432 filed on August 21, 2006, registered on July 3, 2007 in international class 45.

The Disputed Domain Name <comfortkeepers.works> was registered on July 8, 2023 and resolves to a website with pay-per-click links.

#### 5. Parties' Contentions

##### A. Complainant

The Disputed Domain Name incorporates the COMFORT KEEPERS mark in its entirety with the addition of the Top-Level Domain ("TLD") ".works".

Due to the identical reproduction of the COMFORT KEEPERS mark, the public will obviously believe that the Disputed Domain Name comes from the Complainant or is linked to the Complainant. The addition of the TLD “.works” is inoperative to distinguish it from the Complainant’s marks. On the contrary, the confusion is the more likely that the Complainant is the owner of the domain name <comfortkeepers.jobs> to propose job ads.

The Respondent has registered the Disputed Domain Name and is using it as parking page featuring links connecting to competitor’s websites relating to home care services and retirement homes.

The Complainant, which has recently faced several attacks, also fears a possible fraudulent use of the Disputed Domain Name, notably to perpetrate email scam sent to its clients requesting payment of false invoices on fake bank accounts.

The Respondent has no rights nor legitimate interests in the Disputed Domain Name as he has no rights on COMFORT KEEPERS as corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant’s rights on COMFORT KEEPERS. The Respondent was not commonly known by the Disputed Domain Name prior to the adoption and use by the Complainant of the business name and mark COMFORT KEEPERS. The Respondent does not have any affiliation, association, sponsorship, or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the Disputed Domain Name and to use it.

The COMFORT KEEPERS mark is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the Complainant.

The Respondent obviously knew the existence of the COMFORT KEEPERS marks when he registered the Disputed Domain Name, so that he perfectly knew that he had no rights or legitimate interests in it and that he cannot lawfully use it.

The Respondent is using the Disputed Domain Name by exploiting the confusion with the earlier mark COMFORT KEEPERS to attract Internet users and to incite them to click on third commercial links whose websites are in direct competition with the Complainant’s business.

The unauthorized registration and use of the Disputed Domain Name by the Respondent are for the purpose of commercial gain, in the aim of fraudulent uses, and then constitute bad faith registration and use.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant has demonstrated it owns registered trademark rights in the COMFORT KEEPERS mark. The TLD “.works” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the Disputed Domain Name is identical to a mark in which the Complainant has rights.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), sections 1.7 and 1.11.1, and *Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is identical to a mark in which the Complainant has rights.

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

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name years after the Complainant had begun using its globally known COMFORT KEEPERS mark indicates the Respondent sought to piggyback on the mark for illegitimate reasons, namely to receive pay-per-click revenue to users clicking through to third party sites. Further, the composition of the Disputed Domain Name carries a high risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1).

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Disputed Domain Name was registered many years after the Complainant first registered and used its global COMFORT KEEPERS trademark. The evidence on the record provided by the Complainant with respect to the extent of use and global fame of its COMFORT KEEPERS trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's COMFORT KEEPERS trademark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

There is no reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the COMFORT KEEPERS trademark with the TLD ".works".

Further, the use of the Disputed Domain Name by the Respondent is clearly in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a disputed 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. The Complainant has submitted evidence that the Respondent has used the Disputed Domain Name in order to direct users to a parked website which includes links to the Complainant's competitors. Given the fame of the Complainant's COMFORT KEEPERS mark, the obvious inference is that the Respondent hoped to mislead customers of the Complainant to visit the website at the Disputed Domain Name trading on the Complainant's trademark and reputation in order to obtain pay-per-click revenue. This is a textbook example of bad faith use on the part of the Respondent.

In the absence of any evidence or explanation from the Respondent, the Panel finds that the only plausible basis for registering and using the Disputed Domain Name has been for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the Complainant has satisfied 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 <comfortkeepers.works> be transferred to the Complainant.

*/Colin T. O'Brien/*

**Colin T. O'Brien**

Sole Panelist

Date: September 18, 2023