

ADMINISTRATIVE PANEL DECISION

Kuomiokoski Oy v. Client Care, Web Commerce Communications Limited Case No. D2023-3620

1. The Parties

The Complainant is Kuomiokoski Oy, Finland, represented by Backström & Co Attorneys, Finland.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <kuoma-ale.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2023. On August 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 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 ([proxy] ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 amendment to the Complaint on August 30, 2023.

The Center verified that the Complaint together with the amendment to the 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 September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 27, 2023.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on October 2, 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 shoe and kid's outerwear manufacturer founded 1928, in Finland.

For the word mark KUOMA, the Complainant owns the European Union Trademark registration No. 1913995 (registered on March 25, 2002) and the Finnish trademark registration No. 211622 (registered on October 30, 1998).

The Complainant holds the domain name <kuoma.fi> under which its official website is available.

The disputed domain name was registered on May 17, 2023, and has resolved to a website presenting itself as an official shop of the Complainant by copying all content from the Complainant's website "www.kuoma.fi".

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

On the basis of the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the KUOMA trademark, which is wholly reproduced in the disputed domain name.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on the assessment of the second and third elements". Hence, the Panel holds that the addition of the term "-ale" (the Finnish word for "discount") to the Complainant's KUOMA trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent has not been provided any permission or license to use registered trademarks of the Complainant.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant's trademark together with a descriptive term, cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the Complainant's credible contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the circumstances of this case, including (i) the composition of the disputed domain name, (ii) the year of registration of the disputed domain name, and (iii) the reputation of the Complainant's trademark, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

The Panel finds that the reproduction of the Complainant's trademark along with the term "-ale" creates a likelihood of confusion between the Complainant's trademark and the disputed domain name.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to generate traffic to its site (purporting to be an online shop of the Complainant) by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website for its own commercial benefit. The Respondent has therefore used the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled 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 <kuoma-ale.com> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: October 16, 2023