

ADMINISTRATIVE PANEL DECISION

CK Franchising, Inc. v. Michelle Boyer, ComfortKeepersLLC
Case No. D2023-3734

1. The Parties

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

Respondent is Michelle Boyer, ComfortKeepersLLC, United States.

2. The Domain Name and Registrar

The disputed domain name <comfortkeepersllc4you.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2023. On September 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 15, 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 identity) and contact information in the Complaint. The Center sent an email communication to Complainant on September 18, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 19, 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 Respondent of the Complaint, and the proceedings commenced on September 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 13, 2023.

The Center appointed Michael A. Albert as the sole panelist in this matter on October 18, 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

CK Franchising, Inc. (Comfort Keepers franchise) provides in-home care for seniors and adults who need assistance at home. COMFORT KEEPERS was founded in 1998 by a home health aide to provide in-home medical care.

In 2009, COMFORT KEEPERS 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 senior markets. SODEXO is expanding the COMFORT KEEPERS brand, giving seniors and families around the world options on how and where elders age. COMFORT KEEPERS is available in 13 countries. With more than 700 offices worldwide, COMFORT KEEPERS is one of the fastest growing franchise systems.

Complainant owns the following registered marks (among others):

- COMFORT KEEPERS, US Trademark Reg. No. 2366096 filed on March 25, 1999, registered on July 11, 2000;
- I AM A COMFORT KEEPER, US Trademark Reg. No. 3172466 filed on June 8, 2005, registered on November 14, 2006;
- WE ARE COMFORT KEEPERS, US Trademark Reg. No. 3172467 filed on June 8, 2005, registered on November 14, 2006;
- BE A COMFORT KEEPER, US Trademark Reg. No. 3258432 filed on August 21, 2006, registered on July 3, 2007;
- COMFORT KEEPERS, European Union Trademark Reg. No. 009798001 filed on March 9, 2011 and registered on August 22, 2011; and
- COMFORT KEEPERS, European Union Trademark Reg. No. 004210456 filed on December 16, 2004 and registered on January 19, 2006.

The disputed domain name was registered on August 18, 2023, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The disputed domain name <comfortkeepersllc4you.com> is virtually identical to the COMFORT KEEPERS mark, and the public would thus undoubtedly believe that this domain name belongs to or is linked to COMFORT KEEPERS.

Respondent has no rights or legitimate interests in the disputed domain name. Complainant is Comfort Keepers Inc. and not Comfort Keepers LLC. Complainant has not authorized, licensed or otherwise permitted Respondent to register or use the disputed domain name. Respondent is not identified by or publicly associated with the COMFORT KEEPERS mark or name in any way but is merely seeking to generate consumer confusion.

Respondent registered the disputed domain name in an attempt to create confusion between its identity and that of Complainant, which demonstrates that Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant has demonstrated rights in the mark COMFORT KEEPERS as a result of its multiple long-held trademark registrations. The disputed domain name wholly incorporates the COMFORT KEEPERS mark with the additional terms “llc” and “4you”. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See, e.g., *Rakuten, Inc. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Matthew Connor, No Company*, WIPO Case No. [D2019-2983](#).

The Panel finds that Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

There is no evidence demonstrating a *bona fide* offering of goods or services by Respondent. Respondent has not responded to Complainant’s *prima facie* showing that Respondent lacks rights or legitimate interests. Complainant confirms that Respondent does not have license, permission, or authorization to use Complainant’s mark. Complainant has made out a *prima facie* case that Respondent lacks rights or legitimate interests, and the burden of production of evidence shifts to Respondent.

The Panel notes that Respondent’s organization name is “ComfortKeepersLLC”. However, no evidence was adduced to show that Respondent has been commonly known by this name. Furthermore, the disputed domain name does not resolve to a website. Under such circumstances, non-use supports a finding of no rights or legitimate interest in a disputed domain name. See, e.g., *Welch Foods Inc. v. USCYB*, WIPO Case No. [D2001-1072](#); *Expedia, Inc. v. Miles Pennella*, WIPO Case No. [D2001-1416](#).

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

C. Registered and Used in Bad Faith

The disputed domain name was created on August 18, 2023, at least 23 years after Complainant registered the COMFORT KEEPERS mark in the United States. Given that Complainant’s marks are federally registered in the United States and have been widely used across the country during that time period, and that the disputed domain name is confusingly similar to those marks, it is inconceivable that Respondent was not aware of Complainant and its marks when it registered the disputed domain name. There is no plausible reason for such registration other than an attempt to interfere with Complainant’s business or trade on its goodwill, nor has Respondent advanced any contrary argument. The fact that the disputed domain name does not resolve to an active website does not preclude a finding of bad faith under the doctrine of passive holding.

The Panel finds that 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, <comfortkeepersllc4you.com>, be transferred to Complainant.

/Michael A. Albert/

Michael A. Albert

Sole Panelist

Date: November 1, 2023