

ADMINISTRATIVE PANEL DECISION

CoryxKenshin LLC v. Bigbom LTD.

Case No. D2023-3773

1. The Parties

The Complainant is CoryxKenshin LLC, United States of America (“United States” or “U.S.”), represented by Karin H. Butchko, U.S.

The Respondent is Bigbom LTD., Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <corykenshinmerch.com> is registered with NameCheap, Inc. (the “Registrar”), hereinafter referred to as the Domain Name.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on September 11, 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 the Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 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 the Respondent of the Complaint, and the proceedings commenced on September 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2023.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on October 24, 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 2009, the Complainant has owned a YouTube channel featuring videos by a person known as CoryxKenshin. As of July 2023, the YouTube channel had some 16.6 million subscribers. From 2016, the Complainant has operated an online store at “www.coryxkenshin.com” offering for sale a range of the Complainant’s products under the trademark CORYXKENSIN.

The Complainant is the proprietor of several United States trademarks, *inter alia* trademark number 6,482,025 CORYXKENSIN registered on September 14, 2021, hereinafter referred to as the “Trademark”.

The Domain Name was registered on October 14, 2023. It resolves to a website whose home page has the same layout and color scheme as the Complainant’s homepage, also displaying the “CoryxKenshin” logo in the same way and which purports to offer for sale a wide range of CORYXKENSIN products. The <title> metatag of the home page includes the text “CoryxKenshin Store”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to the Trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The Complainant requests that the Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondent’s failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's Trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the Domain Name absent the dividing letter "x" between the elements CORY and KENSHIN. Accordingly, the Domain Name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "merch", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 respondent. As such, where a complainant makes out a *prima facie* case that respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Domain Name. If respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [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 such as those enumerated in the Policy or otherwise.

Moreover, the composition of the Domain Name carries a risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1). Such inference appears to be the intent of the Respondent given the use of the Domain Name to host a webstore allegedly offering the Complainant's branded products for sale while failing to disclose the nature of any relationship (or lack thereof) with the Complainant, which ultimately does not represent a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.8.

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

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name, comprising the dominant elements of the Trademark with the addition of "-merch", and the use of the Domain Name by the Respondent for a website selling what purport to be the Complainant's goods, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Trademark in mind when it registered the Domain Name.

In the absence of any response by the Respondent, the Panel has no reason to doubt that the Respondent has used its website to mislead Internet users into believing that the website at the Domain Name is operated by or authorized by the Complainant and offering products authorized by the Complainant. In the Panel's view, the use of a domain name for such activity, clearly with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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, <corykenshinmerch.com>, be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: November 7, 2023.