

ADMINISTRATIVE PANEL DECISION

Adikteev v. 浦玲琴

Case No. D2023-3781

1. The Parties

The Complainant is Adikteev, France, represented by Tmark Conseils, France.

The Respondent is 浦玲琴, China.

2. The Domain Name and Registrar

The disputed domain name <adikteev-apps.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2023. On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2023.

The Center appointed Knud Wallberg 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

The Complainant is one of the leading actors in the field of advertisement technologies and has been doing business in France and worldwide for more than 10 years.

The Complainant holds registrations of the trademark ADIKTEEV worldwide, including French trademark registration No. 4379582, filed on July 27, 2017, and covering goods and services in classes 9, 35 and 42; European Union trademark registration No. 017621822, filed on December 20, 2017, and covering goods and services in classes 9, 35 and 42, and International trademark registration No. 1400512, filed on January 24, 2018, having effects in China and covering goods and services in classes 9, 35 and 42.

The disputed domain name was registered on August 29, 2023. At the time the Complaint was filed it was used for a website which displayed the Complainant's ADIKTEEV trademark, together with a request for Internet users accessing the website to register an account.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark ADIKTEEV, since it reproduces the mark in its entirety, with the addition of the descriptive term "apps".

The Complainant further submits that the Respondent is not affiliated in any manner to the Complainant and has never been authorized to use or register in any way the name "adikteev", including as a domain name, and contends that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant finally submits that the disputed domain name was registered and is being used in bad faith. The Complainant thus submits that it is obvious that, the Respondent could not have ignored the existence of the Complainant's rights and use of the ADIKTEEV trademark, when the disputed domain name was registered and that the disputed domain name is used in bad faith for a website, which is a clear knock-off version of the Complainant's official website.

B. Respondent

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

6. Discussion and Findings

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 disputed 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 and service mark ADIKTEEV for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “-apps”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, 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 disputed 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. [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 disputed 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 disputed domain name. In this regard, the Panel notes that the composition of the disputed domain name incorporating the Complainant’s trademark carries a risk of implied affiliation, further reinforced by the impersonating nature of the content exhibited at the disputed domain name, and as such cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#). Noting the disputed domain name’s impersonating content, the Respondent’s use of the disputed domain name does not amount to a *bona fide* offering of goods or services.

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 Panel considers that the record of this case reflects that the Respondent initially used the disputed domain name in an attempt to attract, for commercial gain, Internet users to its website, 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. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The fact that the website under the disputed domain name is currently inactive does not prevent a finding of bad faith use in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds 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 that the disputed domain name, <adikteev-apps.com>, be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: November 10, 2023