

ADMINISTRATIVE PANEL DECISION

Khadi & Village Industries Commission v. Sonal Humbe Kulkarni, Personal
Case No. D2024-1577

1. The Parties

The Complainant is Khadi & Village Industries Commission, India, represented by Fidus Law Chambers, India.

The Respondent is Sonal Humbe Kulkarni, Personal, India.

2. The Domain Name and Registrar

The disputed domain name <khadiyuga.com> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 15, 2024. On April 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 15, 2024, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 2024, 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 April 19, 2024.

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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 15, 2024.

The Center appointed Saisunder Nedungal Vidhya Bhaskar as the sole panelist in this matter on May 21, 2024. 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 statutory body formed in April 1957 by the Government of India, under an Act of Parliament, "Khadi and Village Industries Commission Act of 1956". The Complainant generates employment in about 2.48 lakh villages throughout the country and has a widespread presence across the country.

The Complainant is the registered proprietor of the mark KHADI in India bearing registration numbers 2851542 in class 24, 2851543 in class 25, 2851544 in class 26, 2851545 in class 27, and 2851552 in class 35, all registered on November 27, 2014, claiming usage since September 25, 1956. Further, the Complainant also has applied for registration of KHADI and its formative marks in various other jurisdictions including United States of America, United Kingdom, and European Union. The Complainant's mark KHADI has also been recognised as well known trademark by Indian courts and the Indian Trademarks Registry. The Complainant claims that it has taken widespread efforts to promote its KHADI trademark by participating in various fashion events and programmes and also by collaborating with various reputed fashion designers and brands such as Titan and Raymond.

The Disputed Domain Name was registered on February 3, 2024, and the same is parked for sale and as a pay-per-click ("PPC") through a landing page of the Registrar.

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.

The Complainant contends that the Disputed Domain Name is confusingly similar to its KHADI trademark, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent registered and is using the Disputed Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The Complainant further contends that the Disputed Domain Name is parked and there is no bona fide use of the Disputed Domain Name by the Respondent.

B. Respondent

The Respondent did not reply to the Complainant's contentions and bearing this in mind and in this background, the Panel shall draw such adverse inferences from the absence of the Respondent's reply as it considers appropriate in the circumstances.

6. Discussion and Findings

For this Complaint to succeed in relation to the Disputed Domain Name the Complainant must prove that:

- (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 Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the mark is reproduced within the Disputed Domain Name along with the additional term "yuga". Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms "yuga" may bear an 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 Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent's lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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 available records, 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 such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is commonly known by the Disputed Domain Name. The Respondent has not used the Disputed Domain Name in connection with a bona fide offering of goods or services but is merely using it as a parked webpage. The Respondent has never been licensed or otherwise authorized by the Complainant to use its trademark.

Further, UDRP panels have found that domain names identical to a complainant's trademark carry high risk of implied affiliation. Even where (as here) a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the light of the well known status of the KHADI trademark of the Complainant in India where the Respondent is located, and the fact that the Respondent has incorporated the KHADI trademark in its entirety in the Disputed Domain Name which resolves to a parked page displaying PPC links, the Panel is in no doubt that the Respondent had the Complainant and its rights in the KHADI mark in mind when the Disputed Domain Name was registered. Accordingly, in the Panel's view, the bad faith is evidently established where the Disputed Domain Name is so obviously connected to the well known trademark and hence its very use by the Respondent with no connection to the Trademarks suggests opportunistic bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the available record, the Panel finds that the Disputed Domain Name resolves to a website displaying PPC links to third-party commercial websites. Thus, the Panel concludes that the Respondent is using the Disputed Domain Name with the intention to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's KHADI mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The Panel notes the reputation of the Complainant's Trademark, and the composition of the Disputed Domain Name which incorporates the Trademark in entirety, the failure of the Respondent to submit a response and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy and hence the panel concludes that all these amount to bad faith under paragraph 4(b)(iv) 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 <khadiyuga.com> be transferred to the Complainant.

/Saisunder Nedungal Vidhya Bhaskar/

Saisunder Nedungal Vidhya Bhaskar

Sole Panelist

Date: June 4, 2024