

## **ADMINISTRATIVE PANEL DECISION**

Khadi & Village Industries Commission v. Albine Martin, KHADI  
Case No. D2024-1578

### **1. The Parties**

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

The Respondent is Albine Martin, KHADI, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <khadico.com> 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, Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 16, 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent sent email communications to the Center on May 8, May 20, May 31, and June 10, 2024. Initially, the Respondent offered to cancel the disputed domain name, but the Complainant requested to have it transferred. The case was suspended on May 10, 2024; however, the Parties were not able to reach a settlement, and as such the case was reinstated on June 11, 2024, at the Complainant’s request.

The Center appointed Jeremy Speres as the sole panelist in this matter on June 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 in accordance with legislation passed by the Indian Parliament, namely, the Khadi and Village Industries Commission Act of 1956. As an apex organization under the Ministry of Micro, Small and Medium Enterprises, the Complainant is engaged in the promotion and development of products, particularly clothing and textile products, under the KHADI trademark which it licenses third parties to use for a variety of products for the benefit of rural communities. The Complainant's mark has been held to be well known by prior UDRP panels. See for example *Khadi & Village Industries Commission v. Kuldeep Singh*, WIPO Case No. [D2022-4094](#).

The Complainant owns numerous registrations for its KHADI mark in various jurisdictions, including Indian Trade Mark Registration No. 2851542 KHADI in class 24, having a registration date of November 27, 2014.

The disputed domain name was registered on February 2, 2024, and previously resolved to a Registrar parking page featuring pay-per-click ("PPC") advertising. The Complainant claims that the disputed domain name did not resolve to an active website at the time of filing.

#### **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 was registered and used in bad faith in order to take advantage of the reputation attached to the Complainant's well-known mark for the Respondent's commercial gain.

##### **B. Respondent**

The Respondent claims that it had no prior knowledge of the Complainant, and that it registered the disputed domain name for use "in launching a future business venture." Nevertheless, the Respondent has consented to the cancellation of the disputed domain name. The Respondent claims to have asked the Registrar to cancel the disputed domain name's registration, and the Respondent indicated, in informal correspondence, that it would be prepared to transfer the disputed domain name to the Complainant in return for compensation.

#### **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.

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. 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, here “co”, 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 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 Complainant’s mark was registered and well known long before registration of the disputed domain name, the disputed domain name is confusingly similar to the Complainant’s mark and the Complainant has certified that the disputed domain name is unauthorized by it.

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. The Respondent claims that it registered the disputed domain name for use “in launching a future business venture” but has provided no evidence of this and no details concerning the purported venture whatsoever. There is thus no evidence in the record of any demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services in terms of paragraph 4(c)(i) of the Policy.

Use of a domain name to host PPC links does not represent a bona fide offering where the disputed domain name capitalises on the reputation of the complainant’s mark, as in this case.

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 Complainant’s evidence establishes that its mark was well known long before registration of the disputed domain name. UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trademark, as in this case, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1.

In the Respondent’s informal response it states:

“This whole matter has consumed significant time so if you want a transfer please confirm commitment for total cost reimbursement...Feel free to orchestrate your purchase request through Go Daddy directly or make me an offer for transfer.”

Notwithstanding the Respondent's later statement that it "made good faith effort to recoup its out of pocket costs", the Panel finds that the Respondent's earlier references to "consumed significant time", "total cost reimbursement" and "make me an offer for transfer" in the absence of any cogent explanation from the Respondent for its registration of the disputed domain name suggest that the Respondent was seeking compensation beyond its out-of-pocket costs directly related to the domain name all along. Paragraph 4(b)(i) of the Policy is therefore relevant.

The disputed domain name has been used to host PPC links. Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them. [WIPO Overview 3.0](#) at section 3.5.

The Respondent has been coy about its plans for the disputed domain name, referring only to an undescribed and unsubstantiated "future business venture". The Respondent is faced with a serious allegation of having acted in bad faith and one would have expected the Respondent to substantively defend against that allegation if it was acting in good faith. That the Respondent has not done so is suggestive of bad faith.

The composition of the disputed domain name, consisting of the Complainant's KHADI mark plus the company designation "co", suggests that the disputed domain name relates either to the Complainant or an affiliate thereof, which in any event points to targeting of the Complainant.

Prior UDRP panels have found in favor of the Complainant in circumstances very similar to those at issue in this case, involving a respondent in the United States and PPC advertising. See *Khadi and Village Industries Commission v. Domains By Proxy, LLC / Nanci Nette*, WIPO Case No. [D2022-0361](#).

Taken together, these factors indicate an intention on the Respondent's part to take advantage of the repute of the Complainant's mark.

The Respondent consented to the cancellation of the disputed domain name in its Response. In a later informal response, the Respondent stated: "I in deference and respect for the roots of Khadi will aim not to utilize [the disputed domain name]." Without an explanation from the Respondent, this calls into question the Respondent's claim that it had no prior knowledge of the Complainant.

The fact that the disputed domain name no longer resolves to an active website does not prevent a finding of bad faith.

The Panel finds that the Complainant has established the third element 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 <khadico.com> be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: July 4, 2024