

ADMINISTRATIVE PANEL DECISION

CoryxKenshin LLC v. Babar Anwar
Case No. D2024-1599

1. The Parties

The Complainant is CoryxKenshin LLC, United States of America (“United States”), represented by Carlson, Gaskey & Olds, P.C., United States.

The Respondent is Babar Anwar, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <coryxkenshinmerch.online> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 16, 2024. On April 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 20, 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 21, 2024.

The Center appointed Iris Quadrio as the sole panelist in this matter on May 30, 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 claims to own a Youtube Channel under the name “coryxkenshin” that was created in 2009. In this regard, the Complainant explains that the number of the Complainant’s subscribers has significantly increased over the past few years, reaching 18 million subscribers on March 4, 2024.

The Complainant has been using the trademark CORYXKENSHIN for over 10 years and is the owner of several registrations at the United States Patent and Trademark Office (USPTO), including Reg. No. 6482025 registered on September 14, 2021, for classes 25 and 41; and Reg. No. 6977752, registered on February 14, 2023, for classes 9, 14, 16 and 25.

The Complainant uses the trademark CORYXKENSHIN in relation to (a) the provision of online videos featuring video game reviews and video game play with commentary; and (b) the manufacture of goods including cell phone cases, silicon wristbands in the nature of a bracelet, printed posters, stickers, and apparel including shirts, hoodies, t-shirts, sweatshirts, pants and baseball caps and hats.

Likewise, the Complainant claims to own the domain name <coryxkenshin.com> since February 2016, which initially resolved to a website that commercialized goods containing trademark CORYXKENSHIN (as evidenced by the Complainant in Annex 5).

Lastly, the disputed domain name was registered on December 14, 2023 and according to the evidence provided by the Complainant as Annex 9, it resolved to a commercial website that prominently displayed the Complainant’s trademark and commercialized clothing, home décor and accessories under that trademark. Currently, the disputed domain name resolves to an inactive website.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its trademark CORYXKENSHIN.

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain name, in particular is not commonly known by the disputed domain name. .

More specifically, the Complainant alleges that the Respondent has made no legitimate use of the disputed domain name,. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant’s website.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was 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. 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, the word "merch", may bear on assessment of the second and third elements, the Panel finds that the inclusion 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 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 Complainant has claimed not to have authorized, or permitted the Respondent to use the trademark CORYXKENSHIN in the disputed domain name or otherwise nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the CORYXKENSHIN trademark which clearly precede the

Respondent's registration of the disputed domain name.

Likewise, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name. On the contrary, based on the evidence provided by the Complainant in Annex 9, the Respondent's use of the disputed domain name appears to be merely intended to benefit from the Complainant's reputation by creating confusion among Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): *"Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry."* In this regard, the Panel notes that the composition of the disputed domain name carries a risk of implied affiliation.

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 such connection, the Complainant has submitted evidence to support that the trademark CORYXKENSHIN is widely known in the gaming industry and was registered and used before the Respondent registered the disputed domain name. When registering the disputed domain name, the Respondent has targeted the Complainant's trademark CORYXKENSHIN to commercialize non-licensed products bearing the Complainant's trademark and benefit from the Complainant's reputation by generating confusion among Internet users.

Additionally, the Panel has made some limited investigations on the disputed domain name, in line with its general powers articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, and found that it currently resolves to an inactive website. As per section 3.3 of [WIPO Overview 3.0](#), the fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding. (See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's trademark CORYXKENSHIN when it registered the disputed domain name. Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's CORYXKENSHIN trademark in the disputed domain name creates a presumption that the disputed domain name was registered and is used on a bad faith basis.

In view of the above given reasons, the Panel finds that the Respondent has registered and used the disputed domain name 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 <coryxkenshinmerch.online> be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: June 13, 2024