

ADMINISTRATIVE PANEL DECISION

Khadi & Village Industries Commission v. Jitender Thirwani
Case No. D2024-1853

1. The Parties

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

The Respondent is Jitender Thirwani, India.

2. The Domain Name and Registrar

The disputed domain name <khadi-store.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 May 2, 2024. On May 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 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 (GoDaddy.com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 6, 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 amendment to the Complaint on May 7, 2024.

The Center verified that the Complaint together with the amendment to 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2024.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on June 5, 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 the Act of Parliament, Khadi and Village Industries Commission Act of 1956. Its head office is located in Mumbai, Maharashtra, India. The Complaint generates employment in over 2.48 lakh villages in India. It has a widespread presence across the country and has the implementation of its various programs in all the states.

The programs offered by the Complainant are to promote products under the trademark KHADI and its variations, registered in favour of the Complainant and, used in connection with goods sold and services offered by the Complainant and its authorized members. These registered marks include:

Trademark	Jurisdiction	Registration number	Class	Date of registration
KHADI	India	2851542	24	November 27, 2014
KHADI	India	2851543	25	November 27, 2014
KHADI	India	2851552	35	November 27, 2014

That the Complainant has also applied/registered its KHADI trademark and its variations in several other jurisdictions such as Mexico, Canada, Bahrain, France, Estonia, Singapore, United Kingdom, Bulgaria, Malaysia, Bhutan, New Zealand, United States of America, European Union, and Australia.

That the Complainant adopted the trademark KHADI (which forms a part of its tradename, corporate name, and trading style) on September 25, 1956, and the same has been in use continuously till date.

The Complainant grants authorization to various retailers, organizations, societies, and institutions to sell products under the KHADI trademark. To become an authorized user of the KHADI trademark for selling and promoting KHADI-certified products and services, each organization must apply for recognition through the Khadi Institutions Registration & Certification Sewa (KIRCS).

That UDRP panels have also recognized and upheld the Complainant's rights in the KHADI trademarks in a number of favorable decisions. The Complainant has also furnished copies of some of the decisions.

The Complainant's trademark KHADI has been held to be "well known" trademark by the Delhi High Court and other judicial and quasi-judicial authorities. The Complainant has furnished, inter alia, the decision issued by the Delhi High Court, where the trademark KHADI was held as a "well known" mark.

The disputed domain name was registered on December 22, 2023. The disputed domain name lands on a page where the pay-per-click (PPC) links are displayed.

5. Parties' Contentions

Notably, the Complainant contends that the disputed domain name is identical / confusingly similar to its mark; that the Respondent lacks rights and legitimate interests therein, and that the disputed domain name was registered and is being used in bad faith.

A. Complainant

The Complainant contends that the disputed domain name is identical /confusingly similar to the Complainant's trademark as it includes the Complainant's trademark KHADI in its entirety, followed by the generic term "store" which means a shop. The Complainant relies upon its registered trademarks as well as the common

law rights, established and demonstrated through long and continuous use, to claim that the disputed domain is identical /confusingly similar to the Complainant's trademark KHADI. The Complainant states that the disputed domain name wholly contains the Complainant's trademark KHADI and that mere addition of a generic or descriptive or arbitrary term, i.e., "store" with the well known trademark KHADI of the Complainant, does not serve to distinguish the disputed domain name from the trademark KHADI nor deter the Panel from finding identity / confusing similarity. The Complainant contends that it has satisfied the requirement of the first element under paragraph 4(a)(i) of the Policy.

The Complainant further contends that the Respondent has simply parked the disputed domain name and has not shown any preparations or actual use of the disputed domain name in connection with any legitimate offering of goods or service. The Respondent does not own any trademark corresponding to the disputed domain name nor has the Complainant licensed/authorized the Respondent to use its trademark or any domain name including the trademark KHADI. Accordingly, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant further indicates that the Respondent's main objective could be to sell or transfer the disputed domain name to the Complainant or a third party for a substantial profit. The Respondent's failure to host any content on the disputed domain name or use it for any legitimate offering of goods or services indicates that the disputed domain name was registered in bad faith, with the intent to gain commercial advantage from the Complainant.

The Complainant argues that it enjoys a reputation in its well known trademark KHADI, due to its intensive, long standing, and worldwide use. The Complainant further contends that it is impossible that the Respondent did not have the Complainant's trademark in mind at the time of registering the disputed domain name.

The Complainant also contends and relies upon WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4 to claim that mere registration of a domain name that is identical or confusingly similar to a famous or widely-known (as in this case, a well known) trademark by an unaffiliated entity can by itself create a presumption of bad faith.

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 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 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.

It is well established that the addition of a generic Top-Level Domain ("gTLD") extension (such as ".com" in this case) is generally irrelevant when determining whether a domain name is confusingly similar to a complainant's trademark. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of the term “-store” 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 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. As noted above, the disputed domain name resolves to a website displaying of PPC links. While panels have recognized that using a domain name in connection with PPC links is not necessarily contrary to the Policy, here the PPC links seek to capitalize directly on the Complainant’s trademark, and the Panel therefore finds such use cannot confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.9.

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 present case, the Panel notes that the Respondent’s registration of the disputed domain name that wholly incorporates the Complainant’s well known trademark KHADI itself demonstrates bad faith. [WIPO Overview 3.0](#), section 3.1.4. The usage of the Complainant’s registered and well known trademark as a part of the disputed domain name indicates that that the Respondent was aware of the Complainant’s rights at the time of registering the disputed domain name.

The disputed domain name resolves to a website displaying PPC links. The Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s mark pursuant to paragraph 4(b)(iv) of the Policy.

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 <khadi-store.com> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: June 14, 2024