

## **ADMINISTRATIVE PANEL DECISION**

1141931 Ontario Inc., dba INKAS Group of Companies v. Asaad  
Abdulmohsen, Shadows Co.  
Case No. D2024-2893

### **1. The Parties**

The Complainant is 1141931 Ontario Inc., dba INKAS Group of Companies, Canada, represented by David Khazanski, Canada.

The Respondent is Asaad Abdulmohsen, Shadows Co., Germany.

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

The disputed domain name <inkasvehiclesiq.com> is registered with OnlineNic, Inc. d/b/a China-Channel.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 15, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 2024, 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 12, 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**

According to information in the Complaint, the Complainant is part of a group of companies established in Canada that are in the business of manufacturing armored vehicles since 1993. It has included the trademark INKAS in the corporate name of its group companies since 1994. .

The Complainant's group is specialized in security, manufacturing, and financial industries, all with a security focus, and include armoured vehicle manufacturing, safes manufacturing, security solutions and services, aerospace and defense, financial solutions, and environmental protection services. The Complainant manufactures armoured vehicles including luxury sedans and SUVs, personnel carriers, cash-in-transit vehicles, law enforcement vehicles and other special-purpose armoured vehicles. It uses the INKAS name and logo on all its armoured vehicles all over the world and in relation to their security transportation services, safes and vaults. The Complainant has been granted Canada's National Safety Mark, with International Organisation for Standardisation certifications, specific armoured vehicle standards and other certifications in relation to its vehicles.

The Complainant is the holder of registered trademarks consisting of the word INKAS in various jurisdictions throughout the world, including the following:

- the Canadian Trademark for INKAS (word mark) with registration number TMA530243 registered as of July 19, 2000, in international classes 36 and 39;
- the Canadian Trademark for INKAS (word mark) with registration number TMA1081123 registered as of August 18, 2020, in international classes 40 and 42;
- the Canadian Trademark for INKAS (figurative mark) with registration number TMA530244 registered as of July 19, 2000, in international classes 36 and 39.

The Registrar provided information indicates that the Respondent is located in Germany, even though the address on the website resolved by the disputed domain name contains an address in the Republic of Iraq

The disputed domain name was registered on May 19, 2021, and it resolves to a website with the heading "ANWAR ATROSHI COMPANY", purporting to offer similar services to those of the Complainant in the field of armoured vehicles, and featuring a logo similar to the Complainant's logo (also as a favicon).

#### **5. Parties' Contentions**

##### **A. Complainant**

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

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to its established trademark INKAS as it uses the Complainant's trademark, and it relates to the same product (i.e., vehicles and armoring of said vehicles) which is the premise of the Complainant's business.

As regards the second element, the Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that according to the website at the disputed domain name, the Respondent has allegedly partnered in 2020 with a United Arab Emirates entity led by a Mr. Maksumov (at some juncture operating as INKAS Vehicles LLC) who is also the subject

of two other separate UDRP complaints brought by the Complainant. The Complainant submits that neither the Respondent nor Mr. Maksumov have any right or legitimate interest in respect of the disputed domain name. The Complainant submits it has never granted any license or authorization to the Respondent or to Mr. Maksumov to use the INKAS name or logo. Further, the Complainant argues the Respondent is profiting from selling products while passing off these products as authentic INKAS products with the INKAS name and logo mentioned on those products.

With respect to the third element, the Complainant argues that the disputed domain name was registered primarily for the purpose of disrupting the business of a competitor, namely the Complainant. Moreover, the Respondent is selling low-quality products falsely insinuating himself as part of the Complainant and its brand. This is damaging the goodwill and reputation of the INKAS brand and causing confusion within the industry.

## **B. Respondent**

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

## **6. Discussion and Findings**

No formal Response has been received from the Respondent in this case nor has the Respondent participated in the proceedings in any form. The Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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 3.0](#), section 1.7. It is the settled view of panels applying the Policy that the generic Top-Level Domain ("gTLD") (here ".com") may be disregarded under the first element test as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

The Complainant has shown rights in respect of the trademark INKAS 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, "vehicles" and "iq") 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.

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.

In the present case, the Complainant has established a prima facie case that it holds rights over the trademark INKAS decades prior to the registration of the disputed domain name, and claims that the Respondent has no legitimate interest to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Rather, according to the unrebutted evidence of the Complainant, the website at the disputed domain name is used to offer for sale goods and related services to those offered by the Complainant. The Panel notes the composition of the disputed domain name, which carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The website associated with the disputed domain name displays a similar logo to the Complainant’s registered logo potentially suggesting to Internet users that the website to which the disputed domain name resolves is affiliated to the Complainant. According to the information on the website at the disputed domain name, such is allegedly operated by an apparently competing company named “Anwar Atroshi Company” (also referred to as “AAC SHIELD”), supposedly established in 2014, who alleges to have worked on concluding a partnership with the “global company Inkas” and allegedly “got the honor to receive an ‘exclusive agency in Iraq and the Kurdistan Region of Iraq’”. However, assuming that the reference to the “global company Inkas” is to the Complainant, according to the unrebutted statements of the Complainant, it has never granted any license or authorization to the Respondent or to the person indicated on the website at the disputed domain name to use the INKAS trademark. Under such circumstances, it appears to the Panel, on balance, that the purpose behind the Respondent’s website is to encourage visitors, under the false impression that they are dealing with an affiliate of the Complainant, to purchase the Respondent’s goods, trading off the goodwill and reputation of the Complainant and its mark, such conduct not being bona fide.

Panels have held that the use of a domain name for such impersonation would not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel further notes that the website at the disputed domain name refers to a certain company, INKAS Vehicles LLC, with whom the Respondent allegedly partnered at some point. However, the Respondent is Asaad Abdulmohsen, Shadows Co. The Respondent did not claim it is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy nor has it explained the relationship with the above-mentioned company, or showed any evidence it exists and what rights it might have with respect to the disputed domain name.

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.

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.

According to the unrebutted assertions of the Complainant, its INKAS trademark was registered and used in commerce well before the registration of the disputed domain name. Given also the display of the a similar logo to the Complainant's on the website at the disputed domain name and the fact that the products offered are the same with those of the Complainant (i.e., vehicles and armoring of vehicles) and sold in a niche industry, it seems evident that the Respondent was aware of the Complainant's trademarks at the registration date of the disputed domain name and targeted them.

The disputed domain name resolves to a web shop for related goods and services as those of the Complainant. It displays a similar logo to the Complainant's registered logo, which may suggest to Internet users that the website to which the disputed domain name resolves is affiliated to the Complainant. Therefore, given the circumstances in the case the Panel considers that the Respondent has intentionally created a likelihood of confusion with the Complainant's trademarks in order to attract Internet users for its own commercial gain, as envisaged by paragraph 4(b)(iv) of the Policy and/or to disrupt the business of the Complainant. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Moreover, the Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions or provide any evidence of actual or contemplated good-faith use. In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence to the contrary.

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 <inkasvehiclesiq.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: August 26, 2024