

## **ADMINISTRATIVE PANEL DECISION**

CREAPOLE v. Karen Diaz, Diaz Karen  
Case No. D2024-3433

### **1. The Parties**

The Complainant is CREAPOLE, France, represented by Cabinet Bouchara, France.

The Respondent is Karen Diaz, Diaz Karen, United States of America.

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

The disputed domain name <ikita.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2024. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 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 (ikita.shop (anonymous holder)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 the same day.

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 September 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2024.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on October 14, 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, Creapole, which is a French registered company, has since 1999 operated in the field of the design and distribution of jewellery. Its jewellery products are designed in France and then manufactured by skilled craftsmen in China. The jewellery is sold worldwide.

Annex 5 to the Complainant is a copy of a presentation headed "Ikita Paris" which explains the background to the Complainant's products and brand. The Complainant markets its jewellery products under the trade mark IKITA. The brand was created by a young woman called Lili who was passionate about jewellery. She had the idea of drawing and creating in parallel some sketches of costume jewellery in a geometric and art deco style which were a success with customers.

All the jewellery is made of stainless steel which is mixed with colours associated with enamel or semi-precious stones. It is described by the Complainant as "jewellery with fluid and dynamic lines together form a trendy and chic collection and can easily be found in every woman's wardrobe". Examples of the jewellery are pictured in Annex 5.

The Complainant relies upon four registered trade marks including;

French trade mark IKITA PARIS No. 99807239 registered on August 9, 1999 in classes 14, 18 and 25.

European Union trade mark IKITA PARIS No. 017984602 registered on March 20, 2019 in classes 14, 18 and 25.

International trade mark IKITA PARIS No. 1446047 registered on November 12, 2018 in classes 14, 18 and 25.

Copies of the registrations relied upon are exhibited at Annexes 6 to 9 of the Complaint.

The Complainant is also the owner of the domain name <ikita.fr> registered in 2005 and used to access its main website where consumers purchase original products offered for sale under the mark IKITA PARIS.

The Complainant confirms that it has no relationship whatsoever with the Respondent.

In the absence of a Response there is no evidence from the Respondent. The Complainant, at Annex 10 to the Complaint, exhibits a screenshot of the Respondent's website which is a jewellery related site accessed by the disputed domain name. The screenshot is marked with the mark IKITA and contains photographs of jewellery products which are not dissimilar in style to the Complainant's photographs in Annex 5. Further the Complainant asserts that infringing jewellery products are being offered for sale which infringe the Complainant's copyright and design rights.

It should also be noted that at the top of each page of the screenshot there is wording stating; "Obtenez le plus recent Ikita Paris a des prix abordables". There is therefore a reference to the Complainant's trade mark IKITA PARIS.

The Panel notes that the disputed domain name was registered on January 9, 2024 which the Complainant points out is almost twenty five years after the Complainant's earliest trade mark was registered in 1999.

In the absence of a Response the Panel finds the evidence adduced by the Complainant to be true.

## **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:

- i. The distinctive and dominant element of the Complainant's trade mark IKITA PARIS is the expression "IKITA", which is reproduced in the disputed domain name. Therefore, the disputed domain name is confusingly similar to the trade mark IKITA PARIS in which the Complainant has rights.
- ii. There is no evidence that Respondent has rights or legitimate interests in respect of the disputed domain name. The evidence shows that the disputed domain name is being used by the Respondent to capitalize upon the Complainant's reputation and trade mark rights in the mark IKITA PARIS.
- iii. The evidence of the Respondent's website shows that it is reproducing the Complainant's trade mark IKITA PARIS for the purpose of offering similar jewellery products which infringe the Complainant's copyright and design rights. The Respondent has intentionally attempted to attract Internet users to an on-line location by creating a likelihood of confusion with the Complainant's trade mark IKITA PARIS.

### **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 trade mark 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the distinctive element of the mark is recognizable within the disputed domain name. The distinctive element of the trade mark relied upon consists of the word "ikita" which is used in conjunction with the geographical term "Paris". The disputed domain name consists of the word "ikita" together with the generic Top-Level Domain ".shop".

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 this case the evidence establishes that the Respondent is using the disputed domain name to access its website “www.ikita.shop” which is being used to attract Internet users to offer for sale jewellery while displaying the Complainant’s trademark. Noting the discounted nature of the goods being offered as well as the lack of a disclaimer it is clear that the disputed domain name is being used to generate commercial gain for the Respondent by creating a likelihood of confusion with the Complainant’s trademark.

Panels have held that the use of a domain name for illegitimate activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 present case, the Panel finds that the Respondent is using the disputed domain name to create a likelihood of confusion in Internet users that the Complainant is affiliated with it or sponsors the Respondent’s website. Additionally, the Respondent is using its website to offer for sale similar jewellery products to those of the Complainant.

The Panel finds that this is evidence of registration and use in bad faith pursuant to section 4(b)(iv) of the Policy in that the Respondent has intentionally attempted to attract Internet users to its web site by creating a likelihood of confusion with the Complainant’s mark as to the source of the web site and the products on the web site.

The Panel finds the third element of the Policy has been established.

## 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 <ikita.shop> be transferred to the Complainant.

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: October 28, 2024