

ADMINISTRATIVE PANEL DECISION

Keller Group plc v. jinunbunru
Case No. D2024-3608

1. The Parties

The Complainant is Keller Group plc, United Kingdom, represented by Barker Brettell LLP, United Kingdom.

The Respondent is jinunbunru, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <keller-grp.com> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 6, 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 (not identified) and from the Respondent identified by reference to Annex LCK1 to the Complaint (Redacted for Privacy), and contact information in the Complaint. The Center sent an email communication to the Complainant on September 10, 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 September 11, 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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 8, 2024.

The Center appointed Nicholas Weston 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.

The language of the proceeding is the language of the registration agreement, English.

4. Factual Background

The Complainant is a United Kingdom company established in 1860 that operates a ground engineering contractor business with operations in more than 40 countries. The Complainant holds registrations for the trademark KELLER in various countries including United Kingdom Registration No. 3190599 for the mark KELLER, registered on March 17, 2017 and European Union trademark registration number 1413014 for the KELLER trademark, registered on July 18, 2017.

The Complainant owns the domain name <keller.com> which hosts a website operated by the Complainant.

The Disputed Domain Name was registered on July 4, 2024. The Disputed Domain Name redirects to the Complainant's website, and has been used to send emails purporting to be from an employee of the Complainant.

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 cites a number of trademark registrations for the mark KELLER, in several countries, as prima facie evidence of ownership.

The Complainant submits that it has produced evidence its rights in the mark KELLER predates the Respondent's registration of the Disputed Domain Name. The Complainant submits that the Disputed Domain Name is confusingly similar to its trademark, for the reason that the Disputed Domain Name incorporates in its entirety the KELLER trademark, and that the confusing similarity is not removed by the letters "grp", which it submits "is a common abbreviation of the word 'group', or the generic Top-Level Domain ('gTLD') ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, "[t]he Respondent did not have the permission of the Complainant to register the [Disputed Domain Name] which contains their registered trade mark" and none of the circumstances set out in paragraph 4(c) of the Policy apply. The Complainant also contends that the Disputed Domain Name was used to send "fraudulent" emails "directed to the Complainant's suppliers containing wetransfer links encouraging them to download suspicious and corrupt html files" and that such use should not be considered as a bona fide offering of goods or services.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and fame of the Complainants' trademarks, and, it submits, "the Respondent has used the domain as an instrument of fraud to create an email address, [redacted], to impersonate an employee of the Complainant and disrupt its business. It is our understanding that to create an email address ending in keller-grp.com, the user of that email address would need to own the domain www.keller-grp.com".

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that 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.

Based on the available record, the Panel finds 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 Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark KELLER in numerous countries.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the KELLER trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark KELLER; (b) followed by a hyphen; (c) followed by the letters "grp"; (d) followed by the gTLD ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Name, specifically: "keller-grp".

The Panel finds 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 the hyphen and the letters "grp" 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 Disputed 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 Disputed 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.

The Panel finds that the combined term “keller-grp” has no ordinary meaning other than in connection with the Complainant. Furthermore, there is no indication that the Respondent was commonly known by the terms “keller-grp” prior to registration of the Disputed Domain Name and the Complainant also contends that it has not licensed, permitted, or authorized the Respondent to use the trademark KELLER. The Panel also notes that the composition of the Disputed Domain Name carries a risk of implied affiliation (see [WIPO Overview 3.0](#), section 2.5.1).

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 Panel notes the evidence that the Disputed Domain Name redirects to the Complainant’s website and was used to send email correspondence that attempted to distribute malware and correspond with a number of the Complainant’s suppliers supports the Complainant’s submission that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant’s mark or capacity to otherwise mislead Internet users.

Panels have held that the use of a Disputed Domain Name for illegal activity here, impersonation of the Complainant, distributing malware for the purpose of phishing, impersonation and passing off, 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.

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.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, given the composition of the Disputed Domain Name, and the well-known nature of the Complainant’s trademark, the Panel is satisfied that the Respondent targeted the Complainant’s when it registered the Disputed Domain Name (see *Keller Group plc v. Alan Cummins*, WIPO Case No. [D2023-0775](#) (“The Complainant’s trademark has been registered and used for many decades and is a renowned trademark”); *Keller Group plc v. lawrenceanthony, lawrenceanthony*, WIPO Case No. [D2023-4151](#) (“The Complainant’s KELLER mark has been recognised as being well known by prior UDRP panels”).

The Complainant's mark is so widely known, the Panel is prepared to infer from its combination with the hyphen and the term "grp", a common abbreviation of the word "group", that the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant's trademark (see [WIPO Overview 3.0](#), section 3.2.2). In this case the Complainant's mark was plainly targeted by the Respondent.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name redirects to the Complainant's webpage and that it has been used to send emails with links designed to spread malware, or for the purpose of phishing or for other unlawful activities.

Panels have held that the use of a domain name for illegal activity here, claimed distributing malware, impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under 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 <keller-grp.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: October 23, 2024