

## **ADMINISTRATIVE PANEL DECISION**

KINTO Europe B.V., KINTO Co., Ltd. v. Koch Doreen, Doreen Koch  
Case No. D2024-3899

### **1. The Parties**

The Complainants are KINTO Europe B.V., Netherlands (Kingdom of the) and KINTO Co., Ltd., Japan, represented by Holla legal & tax, Netherlands (Kingdom of the).

The Respondent is Koch Doreen, Doreen Koch, Germany.

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

The disputed domain name <kintouk.com> is registered with CNOBIN Information Technology Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 24, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainants September 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on October 3, 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 October 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 28, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on October 31, 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 Complainants, Kinto Europe B.V., Netherlands (Kingdom of the) (hereinafter referred to as “the First Complainant”) and Kinto Co., Ltd., Japan (hereinafter referred to as “the Second Complainant”), are both entities within KINTO, a company established in 1972 as a tableware wholesaler. The Complainants specialize in the design of tableware, drinkware, and interior accessories. Since 2010, the Complainants have expanded their operations internationally, founding Kinto Europe B.V. in 2016 and Kinto USA, Inc. in 2019.

The Second Complainant holds registered trademarks for KINTO, among other trademarks, as follows:

- European Union trademark Registration number 018226486, registered on August 25, 2020, covering Classes 8, 16, and 21; and
- United Kingdom trademark Registration number UK00918226486, registered on August 25, 2020, covering Classes 8, 16, and 21.

The Complainants operate through domain name <kinto-europe.com>.

The disputed domain name was registered on June 28, 2024. At the time the Complaint was filed, it resolved to a website that purportedly mimicked the Complainants’ official website, offering products identical to those of the Complainants at discounted prices.

The Respondent is based in Germany.

#### **5. Parties’ Contentions**

##### **A. Complainants**

The Complainants contend that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name <kintouk.com> is confusingly similar to their KINTO trademark. The Complainants argue that adding “uk” to their trademark does not differentiate the disputed domain name, as it simply refers to the United Kingdom and may cause confusion by suggesting an association with the Complainants and their trademarks. Furthermore, the Complainants note that the Respondent has replicated content from the Complainants’ official website, reinforcing the likelihood of confusion.

The Complainants argue that the Respondent has no legitimate interests in the disputed domain name, as there is no bona fide use or preparation for use. The Respondent is not known by the disputed domain name, which was likely chosen to resemble the Complainants’ trademark. The Respondent’s website copies the Complainants’ content to mislead consumers and imply a false association. Additionally, after Complainants’ failed test purchase, an unauthorized charge attempt was made, raising concerns of possible fraud.

The Complainants assert that the Respondent registered and used the disputed domain name in bad faith, intending to disrupt their business by imitating their products, branding, and website design. The Respondent’s conduct confuses consumers, diverting them from the Complainants and potentially harming

their reputation. The Respondent's actions appear aimed at exploiting the Complainants' established goodwill for commercial gain rather than establishing a legitimate business, thus evidencing bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Multiple Complainants**

The Complainants assert their common legal interest in the KINTO marks, which are incorporated within the disputed domain name. The Complainants have been the target of common conduct by the Respondent, who allegedly registered and used the disputed domain name in bad faith.

The Second Complainant is the trademarks owner while both Complainants are part of Kinto and are using the KINTO trademarks, thereby establishing their shared legal interest in these trademarks. According to section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[when] assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation".

Given the circumstances, and with no objections coming from the Respondent, the Panel finds that the Complainants have a common grievance, and the Respondent has engaged in a common conduct including the KINTO trademarks, which are in common control of the Complainants in the disputed domain name. For the above-mentioned reasons, the Panel accepts to consolidate the Complaints into one single case against the Respondent. The Panel believes this approach to be reasonable and balanced for all involved parties and recognizes both Complainants as parties in the proceeding.

### **6.2. Findings**

Even if the Respondent did not file a Response to the Complainants' contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainants.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainants are required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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 by the Respondent 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.

The Complainants have shown rights in respect of a trademark 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.

Although the addition of the last part "uk", which appears as an abbreviation for United Kingdom, 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.

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11.1 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take gTLD ".com" when assessing confusing similarity of the disputed domain name.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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.

According to the Complainants, it seems that the Respondent is not associated or connected with the Complainants in any way, and the Complainants have not granted the Respondent any license or authorization to use or register any domain name that include the Complainants' trademark. The Respondent has also failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name.

Additionally, there appears to be no evidence of the Respondent engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or bona fide activities, as the disputed domain name, at the time of the Complaint's filing, resolved to website that closely resembles the Complainants'

official trademark and website, creating a misleading impression of affiliation, which can never confer rights. The website allegedly seeks to associate themselves with the Complainants' trademark, falsely implying an authorized relationship.

Panels have held that the use of domain name for illegitimate activity, specifically using the Complainant's trademark to deceive Internet users by creating a false association with the Complainants, and achieving economic gain by imitating the Complainants' business to deceive Internet users, 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 notes that the Respondent's disputed domain name, <kintouk.com>, closely resembles the Complainants' trademark and website, where the Complainants' identical products are offered at discounted prices, thereby creating a misleading impression of affiliation. The addition of the last part "uk," suggesting the United Kingdom, implies an unauthorized association with the Complainants. The Complainants assert that the Respondent lacks any legitimate basis for such use, as the Respondent has not been appointed as an authorized retailer, potentially leading consumers to a mistaken belief in its legitimacy.

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 assessing bad faith in registration, the Panel concludes it is highly probable that the Respondent was aware of the Complainants' established rights in the KINTO trademarks. This likelihood is resulting by the content displayed on the disputed domain name website, which prominently features the Complainants' trademarks and images of the products offered by the Complainants', an arrangement seemingly designed to create a misleading association with the Complainants. Notably, the Complainants' trademarks predate the registration of the disputed domain name by approximately four years, leading the Panel to the determination that the disputed domain name was registered in bad faith.

Regarding bad faith use, the Panel finds that the Respondent's actions appear intentionally deceptive, positioning itself as unique in the marketplace, serving customers some of the best deals and discounted fashion online, to exploit the Complainants' trademarks and foster a false association with the Complainants. The Panel notes that the mentioned conduct, specifically of the website bearing Complainants' trademarks and offering identical products at discounted prices, demonstrates an intent to mislead consumers and unfairly capitalize on the Complainants' established reputation. This pattern of behavior, coupled with the Respondent's lack of legitimate rights or interests in the disputed domain name, supports a clear finding of bad faith use.

Panels have held that the use of a domain name for illegitimate activity, here, claimed as impersonation/passing off, 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 Complainants have 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 <kintouk.com> be transferred to the Complainants.

*/Petra Pecar/*

**Petra Pecar**

Sole Panelist

Date: November 5, 2024