

ADMINISTRATIVE PANEL DECISION

Kosas Cosmetics, LLC v. Rui Yuan Guo, Wu Han Huang Hang Wang Luo Ke Ji You Xian Gong Si
Case No. D2024-4528

1. The Parties

The Complainant is Kosas Cosmetics, LLC, United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Rui Yuan Guo, Wu Han Huang Hang Wang Luo Ke Ji You Xian Gong Si, China.

2. The Domain Name and Registrar

The disputed domain name <kosasus.com> (the “Disputed Domain Name”) is registered with Jiangsu Bangning Science & technology Co. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 5, 2024. On November 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 amended Complaint in English on November 7, 2024.

On November 6, 2024, the Center informed the parties in Chinese and English, that the language of the Registration Agreement for the Disputed Domain Name is Chinese. On November 7, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on November 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 3, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on December 6, 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 company founded in 2015 and headquartered in Los Angeles, the United States. The Complainant is a beauty brand offering makeup and skincare products, which are available to purchase through the Complainant’s website and across 220 retailers worldwide. The Complainant produced sales of up to USD 60 million in 2020.

The Complainant holds registered trademarks for KOSAS (the “KOSAS Trademark”) in various jurisdictions. The Complainant has provided copies of the registration certificates for the KOSAS Trademark in the United States, the European Union, Australia, and New Zealand. The Complainant has also provided copies of the WIPO Global Brand Database search results indicating the registration of the KOSAS Trademark in other jurisdictions, including the United Kingdom and Singapore.

Jurisdiction	Mark	Registration Number	Registration Date	Class(es) Covered	Status
United States	KOSAS	4979426	June 14, 2016	3	Registered
United States	KOSAS	6647372	February 15, 2022	3	Registered
European Union	KOSAS	018050525	November 29, 2019	3, 4, 8, 18, 21, 24, 25	Registered

The Complainant uses the KOSAS Trademark as part of its brand logo and to promote its products on various social media platforms, including “instagram.com/kosas”, “tiktok.com/@kosas”, “facebook.com/kosascosmetics/”, and “pinterest.com/kosascosmetics”.

The Complainant operates the domain name <kosas.com> associated with the KOSAS Trademark. The domain name <kosas.com> resolves to the official website of the Complainant (i.e., “www.kosas.com”) (the “Official Website”), which displays information about the Complainant’s businesses, offerings, and promotional and other corporate material. The Official Website is available in over 100 currencies and the products listed on the Official Website are shipped internationally.

The Disputed Domain Name was registered on August 9, 2023. Based on the Complainant’s evidence, it resolved to a website that was very similar to the Official Website in terms of the look and feel. The KOSAS Trademark was also featured prominently at the top of the website. The Complainant’s representatives submitted a phishing abuse complaint to the Registrar on October 22, 2024, which resulted in the suspension of the Disputed Domain Name. Upon the Panel’s own visit to the website at the Disputed Domain Name, it remains suspended and is not accessible.

Little information is known about the Respondent. Available information provided by the Registrar covers only the registrant’s name, postal address, telephone number, fax number, and email address.

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.

First, the Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's KOSAS Trademark, as it incorporates the entirety of the KOSAS Trademark. The addition of the geographic term "us" towards the end of the Disputed Domain Name is insufficient to distinguish the Disputed Domain Name from the KOSAS Trademark, and it only reinforces the connection with the Complainant due to the Complainant's establishment and operations in the United States. The Top-Level Domain ("TLD") (i.e., ".com") featured in the Disputed Domain Name is a standard registration requirement and should be disregarded.

Second, the Complainant contends that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent does not have any trademark rights to the term "kosas" and is not commonly known by such term. The Complainant has not granted any license to the Respondent to use domain names featuring the KOSAS Trademark. Further, the Respondent used the Disputed Domain Name to display an online shop that impersonated the Official Website and purported to sell the Complainant's products at discounted prices. Such actions do not constitute a bona fide offering of goods or services, and do not represent a legitimate noncommercial or fair use of the Disputed Domain Name.

Third, the Complainant contends that the Disputed Domain Name was registered and is being used in bad faith. In terms of registration, the Complainant's KOSAS Trademark registration in the United States predates the creation date of the Disputed Domain Name by around seven years. Considering the use of the Disputed Domain Name, and the inclusion of the entirety of the KOSAS Trademark and the geographic term "us" in the Disputed Domain Name, it is implausible that the Respondent was unaware of the Complainant's KOSAS brand and its offerings when registering the Disputed Domain Name. In terms of use, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by using the Disputed Domain Name to create a likelihood of confusion with the Complainant's KOSAS Trademark. The use of the Disputed Domain Name to host an impersonation website gives Internet users a false impression that the website is controlled or authorized by the Complainant. There is also no disclaimer on the website at the Disputed Domain Name to clarify the lack of affiliation with the Complainant.

The Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the Disputed Domain Name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including:

- (a) neither the Complainant nor its representatives are familiar with the Chinese language;

- (b) the website to which the Disputed Domain Name directed was entirely in English, which is an evidence of the Respondent's ability to understand English;
- (c) the Disputed Domain Name is solely composed of Latin characters and clearly encapsulates the Complainant's KOSAS Trademark and contains the acronym "us", which is commonly used in English to represent the United States, and is an evidence of the Respondent's ability to understand English; and
- (d) the Complainant's representatives are based in the United Kingdom and requiring a translation would result in the incurrence of additional expenses and unnecessary delay.

The Respondent did not make any submissions with respect to the language of the proceeding. This is despite the fact that the Center had sent the notification of the Complaint (including instructions on the language of the proceeding to the Respondent) in both Chinese and English.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy states that, in an administrative proceeding, the Complainant must prove each of the following three elements:

- (a) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered and is being used in bad faith.

For the below reasons, support for the Complaint can be found due to the satisfaction of the three conditions for the Disputed Domain Name.

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 trademarks 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 (i.e., the KOSAS Trademark as described in section 4 above). [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the KOSAS Trademark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the KOSAS Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term "us" following the KOSAS Trademark in the Disputed Domain Name 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 KOSAS Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The TLD in the Disputed Domain Name (i.e., “.com”) is a standard registration requirement and as such is disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.1.

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 the 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.

From the overall appearance of the website at the Disputed Domain Name as described in section 4 above, the Panel finds that it is intended to be an impersonation of the Complainant’s Official Website. According to previous UDRP decisions, the use of a domain name for illegitimate and/or illegal activity, such as impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the addition of the term “us” supports the Panel’s finding that the Respondent obtained the Disputed Domain Name to take advantage of the Complainant’s KOSAS Trademark, as the Complainant is established and has operations in the United States, and the KOSAS Trademark was also registered in the United States.

Particularly in regards to the three illustrative examples of rights or legitimate interests in paragraph 4(c) of the Policy, the Panel finds that:

- (i) the Respondent has not used the Disputed Domain Name in connection with a bona fide offering of goods or services, as it displays a copycat website impersonating the Official Website, offering the Complainant’s products bearing the KOSAS Trademark at discounted prices;
- (ii) the Disputed Domain Name does not correspond with the Respondent’s name (i.e., “Rui Yuan Guo, Wu Han Huang Hang Wang Luo Ke Ji You Xian Gong Si”) in English or Chinese, and there is no evidence of the Respondent operating any business or organization with similar name as the Disputed Domain Name; and
- (iii) the Respondent’s use of the Disputed Domain Name does not fall within the scope of legitimate noncommercial or fair use, as it clearly has the effect of misleadingly diverting the Complainant’s customers from the Official Website to the website at the Disputed Domain Name.

The Panel also finds that the Respondent has no rights or legitimate interests in 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.

The Panel finds that the circumstances of registering and using the Disputed Domain Name clearly demonstrate the Respondent's bad faith and satisfy the situation as specified in paragraph 4(b)(iv) of the Policy:

- (a) the Complainant's KOSAS Trademark was registered in the United States (at which the Disputed Domain Name is intended to target, based on the insertion of the term "us" in the Disputed Domain Name) before the Respondent's registration of the Disputed Domain Name;
- (b) the Disputed Domain Name is confusingly similar to both the Complainant's KOSAS Trademark and the Complainant's domain name <kosas.com>, and creates a likelihood of confusion with the Complainant's KOSAS Trademark;
- (c) based on the content of the website at the Disputed Domain Name, the Respondent must have had actual or constructive knowledge of the Complainant (and the KOSAS Trademark) at the time of registering the Disputed Domain Name;
- (d) as noted in section 6.2B above, given that the website at the Disputed Domain Name is intended to be an impersonation of the Complainant's Official Website, the use of the Disputed Domain Name is manifestly considered evidence of bad faith. [WIPO Overview 3.0](#), section 3.1.4;
- (e) according to previous UDRP decisions, using the Disputed Domain Name to host a copycat version of the Complainant's Official Website may constitute bad faith. [WIPO Overview 3.0](#), section 3.4; and
- (f) there is no reasonable connection or association between the Respondent and the Complainant.

According to previous UDRP decisions, the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's KOSAS Trademark, the composition of the Disputed Domain Name, and the fact that the Registrar has suspended the Disputed Domain Name after the Complainant's phishing abuse complaint. The Panel finds that in the circumstances of this case, the current passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Inference of bad faith is also drawn in accordance with paragraph 14(b) of the Rules for the Respondent's failure to file a response as required in paragraph 5(a) of the Rules in the absence of exceptional circumstances.

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 <kosusus.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: December 23, 2024