

ADMINISTRATIVE PANEL DECISION

Keys & Co v. Reece Francis

Case No. DIO2023-0035

1. The Parties

The Complainant is Keys & Co, France, represented In Concreto, France.

The Respondent is Reece Francis, United Kingdom (“UK”).

2. The Domain Name and Registrar

The disputed domain name <keysreim.io> 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 20, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 2023, 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, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 22, 2023, 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 .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 23, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on October 25, 2023. 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 French company established in 2019, specialized in the acquisition, restructuring, development, and management of real estate assets. The Complainant is part of the group called "KEYS ASSET MANAGEMENT" (KEYS AM), which also includes the French company Keys Reim.

The Complainant owns trademark registrations for KEYS in various jurisdictions, including:

- European Union trademark No. 13822838, registered on July 2, 2015, in class 36;
- European Union trademark No. 013838792 (figurative), filed on July 3, 2015, in class 36;
- European Union trademark No. 018256907 (figurative) registered on October 8, 2020, in class 36;
- UK trademark No. UK00913822838, registered on July 2, 2015, in class 36;
- UK trademark No. UK00913838792 (figurative), registered on July 3, 2015, in class 36;
- UK trademark No. UK00918256907 (figurative), registered on October 8, 2020, in class 36; and
- Switzerland trademark No. 681.293, registered on December 8, 2015, in class 36.

The Complainant's group is also the owner of the following domain names containing the word "keys": <keys-reim.com> and <keys.am.com>, both registered on April 14, 2015, that are used by the Complainant to advertise and promote its activity.

The disputed domain name was registered on February 9, 2023. The uncontested evidence submitted with the Complaint shows that the disputed domain name resolves to an active website offering financial services. The evidence also shows that the disputed domain name has been used to scam Internet users.

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

- The disputed domain name is confusingly similar to the Complainant's registered KEYS mark. Indeed, the disputed domain name incorporates the Complainant's trademark in its entirety. The addition of the term "reim" makes it substantially identical to the Keys Reim's company name and to the domain name <keys-reim.com> where the primary website of the Complainant's and of the KEYS AM group is hosted. The absence of the dash between the terms "keys" and "reim" is not enough to differentiate.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not licensed or otherwise permitted the Respondent to reflect its trademark in the disputed domain name. The disputed domain name is not being used in connection with a *bona fide* offering of goods or services, or for a legitimate noncommercial or fair use. In this connection, the Complainant submits that: (i) the disputed domain name resolves to a website offering financial services that are competitive with the Complainant's, (ii) the disputed domain name has been used by the Respondent to propose false investments services, as demonstrated by several emails sent to the Complainant by Internet users claiming to have been scammed after making several payments for investments through the Respondent's website, and (iii) at the Respondent's website there are no details identifying the company providing regulated financial services (such as details of the required authorization by the Financial Conduct Authority, postal address, company registration information).

- The disputed domain name has been registered and is being used in bad faith for fraudulent purpose, namely extorting money, by creating a likelihood of confusion with the Complainant and its group. The circumstances of the case clearly indicate that the disputed domain name is used to scam Internet users.

Finally, the Complainant's contends that the Respondent's attempt to hide its identity when registering the disputed domain name (by employing a privacy service and providing false information) are also indicative of the Respondent's bad faith.

Based on the above, 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

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 or is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration or use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark KEYS based on the evidence submitted in the Complaint.

The disputed domain name entirely incorporates the Complainant's trademark KEYS and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); and *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).¹

The addition of the term "reim" does not prevent a finding of confusing similarity because the Complainant's trademark KEYS remains recognizable in the disputed domain name (see section 1.8 of the [WIPO Overview 3.0](#)).

¹ Given the similarities between the ioDRP and the Uniform Domain Name Resolution Policy ("UDRP"), the Panel finds it appropriate to refer to UDRP jurisprudence, including reference to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

As recorded in section 1.11.1 of the [WIPO Overview 3.0](#), the country code Top-Level Domain (“ccTLD”), such as “.io”, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered trademark KEYS; (b) the Respondent has not been authorized to use the Complainant’s trademark in any way; (c) the Respondent cannot demonstrate any *bona fide* use nor a legitimate noncommercial or fair use of the disputed domain name. In this connection, the Complainant has provided evidence that the disputed domain name resolves to a website offering financial services that are competitive with or similar to those of the Complainant and has been used by the Respondent to scam Internet users for the purpose of extorting money from them.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

According to the evidence submitted by the Complainant - which has not been challenged by the Respondent - the disputed domain name has been used for fraudulent purposes. Previous panels have unanimously and consistently held that the use of a domain name for illegal activity, such as phishing, impersonation/passing off or other types of fraud can never confer rights or legitimate interests on a respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

The Panel also notes that the composition of the disputed domain name (the combination of the Complainant’s trademark KEYS with the additional term “reim” corresponds to Keys Reim’s company name, which is part of the same corporate group as the Complainant, namely KEYS AM) is such to carry a risk of implied affiliation to the Complainant contrary to the fact, which cannot constitute fair use (see section 2.5.1 of the [WIPO Overview 3.0](#)). Indeed, in the present case the uncontested evidence submitted with the Complaint demonstrates that Internet users had been actually misled.

Based on the above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered or used in bad faith.

The Panel finds that both requirements exist in the specific case.

The Respondent registered a domain name composed of the Complainant's trademark KEYS and the term "reim" which has an obvious connection with the Complainant because it is the name of the Complainant's affiliate company Keys Reim. In the Panel's view, this indicates that the Respondent knew and targeted the Complainant when registering the disputed domain name and leads to a finding of registration in bad faith.

As recorded in section 3.1.4 of the [WIPO Overview 3.0](#), evidence that a disputed domain name has been used for fraudulent purposes may be considered evidence of bad faith use. Previous panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers.

The disputed domain name resolves to a website offering financial services that are competitive with or similar to the Complainant's. The evidence submitted shows that the disputed domain name has been used by the Respondent to propose false investments services, as demonstrated by several emails sent to the Complainant by Internet users claiming to have been scammed after making payments for investments through the Respondent's website. Therefore, the Panel finds that the disputed domain name has been used in bad faith for fraudulent purpose, by creating a likelihood of confusion with the Complainant and its group.

Based on all the above, the Panel finds that the Complainant has established also paragraph 4(a)(iii) 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, <keysreim.io>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: November 8, 2023