

## **ADMINISTRATIVE PANEL DECISION**

CK Franchising, Inc. v. Contact Privacy Inc., Customer 7151571251 /  
Comfort Keepers Home Care, Comfort Keeper Home Care  
Case No. D2022-1602

### **1. The Parties**

Complainant is CK Franchising, Inc., United States of America (“United States”), represented by Areopage, France.

Respondent is Contact Privacy Inc., Customer 7151571251, Canada / Comfort Keepers Home Care, Comfort Keeper Home Care, United States.

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

The disputed domain name <comfortkeepersjobs.org> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2022. On May 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on May 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 10, 2022.

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 Respondent of the Complaint, and the proceedings commenced on May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 7, 2022.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on June 17, 2022. 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**

Complainant is a provider of in-home care services for seniors and adults who need assistance at home. Complainant was founded in 1988 and has used the mark COMFORT KEEPERS since that time. In 2009, Complainant was purchased by SODEXO, which expanded the COMFORT KEEPERS brand. With more than 700 offices worldwide, COMFORT KEEPERS has been named one of the fastest growing franchise systems by INC. Magazine. Complainant's services offered under the COMFORT KEEPERS mark are available in 13 countries, including the United States and Canada.

Complainant has received numerous awards for its services offered under the COMFORT KEEPERS mark, including Extraordinary Achievement, Franchise Satisfaction (Franchise Research Institute): 2008-2019; #1 in Senior Care, Top 500 Franchises (Entrepreneur), 2015; Circle of Excellence, National Business Research Institute (NBRI), 2018; Endorsed National Provider by Home Care Pulse, 2016.

In 2020, Complainant's COMFORT KEEPERS brand was listed as first on the list of "AMERICA'S BEST CUSTOMER SERVICE 2020" for Home-Care Services for seniors and disabled, as reported at [www.newsweek.com/americas-best-customer-service-2020/services-personal-services-home-care-maintenance](http://www.newsweek.com/americas-best-customer-service-2020/services-personal-services-home-care-maintenance).

Complainant owns the following registered trademarks, among others:

- COMFORT KEEPERS US Trademark Registration No. 2366096 registered July 11, 2000
- COMFORT KEEPERS European Union Trademark Registration No. 009798001, registered August 22, 2011
- COMFORT KEEPERS European Union Trademark Registration No. 004210456, registered January 19, 2006
- COMFORT KEEPERS Canadian Trademark Registration No. 610141, registered April 12, 2004
- GARDE CONFORT – COMFORT KEEPERS Canadian Trademark Registration No. 677430, registered November 21, 2006

Complainant also operates a website at "www.comfortkeepers.com".

The disputed domain name was registered on April 6, 2022 and resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's trademark, that Respondent has no rights or legitimate interest in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

In order to succeed in its claim, Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

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

(ii) Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to 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".

### **A. Identical or Confusingly Similar**

Complainant has demonstrated that it has strong rights in the trademark COMFORT KEEPERS in connection with in-home care services for seniors and adults who need assistance at home. The disputed domain name incorporates Complainant's mark in its entirety, with the addition of the word "jobs". This addition does not avoid a finding of confusing similarity.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark.

### **B. Rights or Legitimate Interests**

Complainant contends that Respondent is not affiliated with or connected to Complainant in any way. The record is devoid of any facts that establish any rights or legitimate interests of Respondent in the disputed domain name. There is no evidence that Respondent has been commonly known by the disputed domain name or that it has any rights that might predate Complainant's adoption and use of its mark.

Respondent has not made, and is not making, a legitimate noncommercial or fair use of the disputed domain name. Respondent has not used the disputed domain name in connection with the *bona fide* offering of goods or services.

Instead, the record indicates that Respondent is passively holding the disputed domain name. The record indicates that Respondent was most likely aware of Complainant's mark at the time of registering the disputed domain name. Such use cannot be considered *bona fide* and does not support a claim to rights or legitimate interests.

The Panel finds that Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The disputed domain name does not presently have any active content. A passive holding of a domain name does not prevent a finding of bad faith. Passive holding, under the totality of circumstances of the case, can indeed constitute a bad faith use under the Policy (see Section 3.3 of the [WIPO Overview 3.0](#).)

Accordingly, the Panel finds that Respondent has registered and used the disputed domain name in bad faith.

## **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 <comfortkeepersjobs.org> be transferred to the Complainant.

*/Lynda J. Zadra-Symes/*

**Lynda J. Zadra-Symes**

Sole Panelist

Date: July 1, 2022