

ADMINISTRATIVE PANEL DECISION

KIN, Inc. v. guo qing bing
Case No. D2023-4221

1. The Parties

The Complainant is KIN, Inc., United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, P.C., United States.

The Respondent is guo qing bing, China.

2. The Domain Name and Registrar

The disputed domain name <kohls.onl> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2023. On October 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 13, 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 October 16, 2023.

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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 8, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on November 13, 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 in this proceeding is KIN, Inc., a Nevada corporation founded in 1962. The Complainant currently operates more than 1,100 KOHL'S retail stores. In addition to its physical retail locations, the Complainant sells products through its e-commerce website "www.kohls.com" and through its KOHL'S e-commerce app. On average over the past several years, the Complainant's net annual sales have exceeded USD 17 billion. The Complainant advertises and promotes its KOHL'S brand on social media websites, including but not limited to Facebook, Twitter, Pinterest, Instagram, and YouTube. The Complainant has more than 13 million followers across its social media channels.

The Complainant is, *inter alia*, the owner of;

- United States Trademark KOHL'S, registration number 1772009, registered on May 18, 1993;
- United States Trademark KOHL'S, registration number 2047904, registered on March 25, 1997; and
- United States Trademark KOHL'S (device), registration number 2292684, registered on November 16, 1999.

The disputed domain name was registered on August 14, 2023.

The disputed domain name resolves to a website that provides information about the Complainant and its business, and appears to sell purported KOHL'S products/services. However, according to the Complainant, it is not possible to purchase any of the items shown on this website.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the KOHL'S trademark registrations. In this regard, the Complainant affirms that the disputed domain name, which consists solely of the Complainant's KOHL'S trademark minus the apostrophe, is confusingly similar to the Complainant's trademark. The Complainant further states that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. The Complainant thus concludes that the disputed domain name has been intentionally registered and used in bad faith to create an association with the Complainant. In support of this claim, the Complainant specifically underlined that the Respondent's website features the KOHL'S trademark and information about KOHL'S department stores and the Complainant's products in an attempt to confuse consumers into believing that the website is associated with the Complainant.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) - (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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 and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the KOHL'S trademark. The only differences between the KOHL'S trademark and the disputed domain name is the lack of the apostrophe, as well as the Top-Level Domain ("TLD") ".onl".

The TLD suffix is generally disregarded under the test for confusing similarity for the purposes of the Policy, and the missing apostrophe in the Complainant's trademark does not prevent a finding of confusing similarity under the first element of the UDRP.

Pursuant to section 1.7 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, the disputed domain name resolves to a website where the KOHL'S trademark and information about KOHL'S department stores and the Complainant's products are displayed and purported KOHL'S-branded products are offered for sale. The Panel concludes that the website is clearly intended to mislead Internet users into believing that the purported goods are offered by the Complainant. Such use of the disputed domain name cannot confer rights or legitimate interests. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the KOHL'S trademark when it registered the disputed domain name.

The disputed domain name is used for a website where the KOHL'S trademark and information about KOHL'S department stores and the Complainant's services are displayed and purported KOHL'S-branded products/services are offered for sale. Consequently, it is clear that the Respondent registered the disputed domain name while being aware of the Complainant's trademark and activity, and did so with the intention to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of either the Respondent and/or its website, so as to trick those users into doing business with the Respondent.

Therefore, it appears that the Respondent intentionally and fraudulently attempted to impersonate the Complainant. This constitutes bad faith registration and use as well as a disruption of the Complainant's business under the Policy.

In addition, the Panel considers that the nature of the disputed domain name, which is almost identical to the Complainant's trademarks, and to the Complainant's <kohls.com> domain name, reflects the purposeful composition of a domain name to create a direct, misleading inference of the Complainant, and this fact further supports a finding of bad faith.

Further circumstances supporting a finding of bad faith can also be found in the failure to respond to the Complainant's contentions.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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 <kohls.onl> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 27, 2023