

ADMINISTRATIVE PANEL DECISION

Koninklijke KPN N.V. v. Privacy service provided by Withheld for Privacy ehf /
Aiden Pearce
Case No. D2022-0304

1. The Parties

Complainant is Koninklijke KPN N.V., Netherlands, internally represented.

Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Aiden Pearce, Netherlands.

2. The Domain Name and Registrar

The disputed domain name <kpnhost.net> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 28, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on February 1, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 4, 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 February 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 28, 2022.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on March 2, 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

According to the information provided in the Complaint, Complainant is a leading telecommunications and ICT provider in the Netherlands, providing telecommunications services to the Dutch public under the brand KPN. It also provides such services to business customers across Western Europe and wholesale services across the world.

According to the evidence submitted, Complainant owns many registrations for the trademark KPN, including:

- European Union word trademark, no. 0005310099, registration date May 29, 2008
- European Union figurative trademark, no. 018191461, registration date May 23, 2020
- Benelux word trademark, registration number 529431, registration date November 1, 1993.

In addition, Complainant operates the website “www.kpn.com” consisting of the KPN mark

The Domain Name was registered on December 12, 2021. At the time of the decision the Domain Name does not resolve to an active website. Previously the Domain Name <kpnhost.net> directed to a website displaying Complainant’s trademark and telephone number, and containing hyperlinks to Complainant’s social media platforms. At some point in time, “www.kpnhost.net” also redirected to a website in Chinese language at “https://hackerattack.xyz” providing cyber-attack services and lessons.

The trademark registrations of Complainant were issued prior to the registration of the Domain Name.

5. Parties’ Contentions

A. Complainant

Complainant submits that the Domain Name is confusingly similar to the KPN mark. According to Complainant, the first part of the Domain Name is identical to the KPN trademark and the second element “host” merely refers to the general concept of hosting, which is also a service that Complainant offers.

According to Complainant, Respondent has no rights or legitimate interests in the Domain Name. Complainant submits that Respondent has no approval from Complainant to register or use the Domain Name. There is also no indication of Respondent’s use of the trademark KPN in connection with a *bona fide* offering of goods and services. According to the undisputed evidence submitted by Complainant several subjects of the website under the Domain Name previously redirected to Complainant’s website, Complainant’s social media platforms or to <hackerattcak.xyz>; Complainant does not want to be connected to such last name. Complainant concludes by mentioning that it is clear that Respondent has no rights or legitimate interests in the Domain Name.

Complainant submits that Respondent registered and is using the Domain Name in bad faith. According to Complainant Respondent not only registered the Domain Name with Complainant’s trademark in the URL but also used the figurative trademark of Complainant on its website in order to confuse visitors that there is a link between the business activities of Respondent and those of Complainant, especially as several subjects on Respondent’s previous website are redirected to Complainant’s website, Facebook page and Twitter account. Furthermore, the phone number used by Respondent on its previous website is the phone number of Complainant. Finally, Complainant submits that it is very peculiar that the Domain Name was

registered by Respondent approximately 2-3 weeks after the decision in the very similar case *Koninklijke KPN N.V. v. black blue*, WIPO Case No. [D2021-2679](#) (<kpnhost.com>).

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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".

Paragraph 4(a) of the Policy requires that the complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (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.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, Complainant must first of all establish rights in a trademark or service mark and secondly that the Domain Name is identical or confusingly similar to that trademark or service mark.

Complainant has established that it is the owner of several trademark registrations for KPN. The Domain Name incorporates the trademark KPN in its entirety, with the addition of the term "host". Many UDRP panels have found that a disputed domain name is confusingly similar where the relevant trademark is recognizable within the disputed domain name. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The generic Top-Level Domain ("gTLD") ".net" is disregarded under the first element confusing similarity test. See section 1.11 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has proven that the Domain Name is confusingly similar to Complainant's trademarks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In the opinion of the Panel, Complainant has made a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the Domain Name incorporating its trademarks. Respondent is not making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademarks of Complainant.

Based on the undisputed submission and evidence provided by Complainant, the Domain Name at the time of the decision does not resolve to an active website. Previously the website under the Domain Name directed to the website displaying Complainant's trademark and telephone number, and containing

hyperlinks to the website and social media accounts of Complainant. At some point in time, “www.kpnhost.net” also redirected to the website “https://hackerattack.xyz” providing cyber-attack services and lessons. The Panel does not consider such use a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights.

No Response to the Complaint was filed and Respondent has not rebutted Complainant’s *prima facie* case.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name has been registered and is being used in bad faith.

Noting the well-known status of the KPN trademarks and the overall circumstances of this case, the Panel finds it is more likely than not that Respondent knew or should have known of Complainant’s KPN mark.

The Panel notes that the Domain Name at the time of the decision does not resolve to an active website. However, such passive holding of the website does not prevent the Panel from finding registration and use in bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

The Panel also notes that Respondent’s previous use of the website at the Domain Name which displayed Complainant’s trademark and telephone number, and contained hyperlinks to the website and social media accounts of Complainant indicates that Respondent possibly registered the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith in a similar manner to that provided under paragraph 4(b)(iv) of the Policy. “www.kpnhost.net” also redirected to the website “https://hackerattack.xyz” providing cyber-attack services and lessons, which further indicates Respondent used the Domain Name in bad faith.

The Panel finally notes that the contact information of Respondent as provided by the Registrar (City: Tokyo, Country: Netherlands) is obviously false as Tokyo is located in Japan and not in the Netherlands.

The Panel finds that Complainant has proven that the Domain Name has been registered and is being used in bad faith and paragraph 4(a)(iii) of the Policy has been satisfied.

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 Domain Name, <kpnhost.net>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Sole Panelist

Date: March 16, 2022