

ADMINISTRATIVE PANEL DECISION

CK Franchising, Inc. v. Registration Private, Domains By Proxy, LLC /
Dorothy Felix, Health care services
Case No. D2022-1426

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, U.S. / Dorothy Felix, Health care services, U.S.

2. The Domain Name and Registrar

The disputed domain name <comfortkeepershomecareservices.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 21, 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 the Complainant on April 26, 2022, 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 April 29, 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 the Respondent of the Complaint, and the proceedings commenced on May 2, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was May 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 24, 2022.

The Center appointed Jeffrey M. Samuels as the sole panelist in this matter on May 31, 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 CK Franchising, Inc. is a leading provider of in-home senior care services. Its Comfort Keepers franchise was founded in 1998 and now offers services in 13 countries. In addition to in-home care, Comfort Keepers also provides other services to seniors, including those relating to personal care, companionship, nutrition, and technology. The Comfort Keepers franchise has been consistently recognized as a leader in senior home care and has received numerous awards, including being first on the list of America's Best Customer Service 2020 for home-care services for seniors and the disabled.

Complainant owns a number of registrations for trademarks consisting, in whole or in part, of the term COMFORT KEEPERS, including U.S. Trademark Registration Nos. 2366096 registered on July 11, 2000, and 2335434, registered on March 28, 2000. The COMFORT KEEPERS trademark is also registered in many other countries around the world.

The disputed domain name, <comfortkeepershomecareservices.com>, reverts to a parking page featuring links relating to residences and health insurance for the elderly and connecting to third-party websites. The disputed domain name was registered on April 2, 2022.

5. Parties' Contentions

A. Complainant

Complainant alleges that the disputed domain name is identical or confusingly similar to the COMFORT KEEPERS trademark. Complainant asserts that in the disputed domain name, the COMFORT KEEPERS mark keeps its individuality and is clearly perceived by consumers as the predominant part of the domain name. It further maintains that the addition of the descriptive elements "home care services" in the domain name is not sufficient to distinguish it from the COMFORT KEEPERS mark.

Complainant next contends that Respondent has no rights or legitimate interests in the disputed domain name. According to Complainant, Respondent is not commonly known by the disputed domain name, has no rights in the COMFORT KEEPERS corporate or trade name or trademark, and has no affiliation, association or connection with Complainant and has not been authorized, licensed or otherwise permitted by Complainant to register the disputed domain name.

Finally, Complainant asserts the disputed domain name was registered and is being used in bad faith. Complainant argues that, given the widespread use and fame of its COMFORT KEEPERS marks, Respondent undoubtedly knew of the existence of the COMFORT KEEPERS mark when she registered the disputed domain name and knew at that time that she had no rights or legitimate interests in the domain name.

According to Complainant, "[i]t is obvious that the Respondent registered the [disputed] domain name ...with actual knowledge of Complainant's rights in the COMFORT KEEPERS mark very likely for the purpose of creating confusion with Complainant's mark to divert or mislead third parties for Respondent's illegitimate profit This is then an intentional attempt to attract, for commercial gain, Internet users to [Respondent's]

competing websites and to other unrelated websites by creating a likelihood of confusion with the Complainant's mark."

In further support of its "bad faith" contention, Complainant points to the fact that Respondent has already been involved in a domain name dispute with Complainant, wherein the panel ordered the transfer of the domain name <comfortkeeperseventplanningandtalentrep.art>. See *CK Franchising, Inc. v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Dorothy Felix, Comfort Keepers Home Care Services LLC*, WIPO Case No. [D2021-2820](#).

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the COMFORT KEEPERS mark. The domain name incorporates in full the COMFORT KEEPERS mark, adding only merely descriptive terms, as well as the generic top-level domain ".com."

The evidence further indicates that Complainant, through its long use and ownership of registrations for marks that include the term COMFORT KEEPERS, has rights in such mark.

B. Rights or Legitimate Interests

The Panel concludes that Complainant has met its burden of proving that Respondent has no rights or legitimate interests in the disputed domain name. The evidence, including screen shots of Respondent's website, indicates that the disputed domain name reverts to a parking page featuring links to third-party sites that offer services similar or related to those offered by Complainant's COMFORT KEEPERS franchise. Under such circumstances, it may not be found that Respondent is using the domain name in dispute in connection with a *bona fide* offering of goods or services or is making a legitimate noncommercial or fair use of the disputed domain name. There also is no evidence that Respondent is commonly known by the domain name in issue.

C. Registered and Used in Bad Faith

The Panel determines that the disputed domain name was registered and is being used in bad faith. Given the widespread use of the COMFORT KEEPERS mark during the over 20 years that preceded the registration of the disputed domain name, as well as Respondent's other (now transferred) registration for another domain name that incorporates the COMFORT KEEPERS mark, it may be assumed that Respondent was aware of Complainant and of its COMFORT KEEPERS mark at the time the domain name was registered. See WIPO Overview, 3.0, section 3.2.2 and cases cited therein.

As noted above, the disputed domain name is confusingly similar to Complainant's COMFORT KEEPERS mark and reverts to a parking page that includes links to services related to those offered by Complainant. Under such circumstances, the Panel concludes that Respondent, by using the disputed domain name, intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line locations by creating a likelihood of confusion as to the source, sponsorship, endorsement, or affiliation of its site and of the services offered therein, within the meaning of paragraph 4(b)(iv) of the Rules.

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 <comfortkeepershomecareservices.com> be transferred to the Complainant.

/Jeffrey M. Samuels/

Jeffrey M. Samuels

Sole Panelist

Date: June 14, 2022