

## **ADMINISTRATIVE PANEL DECISION**

KPMG International Cooperative v. Registration Private, Domains By Proxy, LLC / Myron Petruch  
Case No. D2022-2303

### **1. The Parties**

The Complainant is KPMG International Cooperative, Netherlands, represented by Taylor Wessing LLP, United Kingdom (“UK”).

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”) / Myron Petruch, Israel.

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

The disputed domain name <gb-kpmg.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 June 24, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 June 29, 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 June 30, 2022.

The Center verified that the Complaint together with the amendment to the Complaint/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 July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 22, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on July 27, 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**

The Complainant is a leading auditing firm which is known for being one of the "Big Four". It has been operating for more than three decades. The Complainant owns trademark registrations for KPMG such as:

- United States trademark registration No. 2339547 registered on April 11, 2000;
- European Union Trade Mark registration No.1011220 registered on April 25, 2000.

The disputed domain name was registered on April 4, 2022 and directs to a website containing Pay-Per-Click ("PPC") links.

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

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

The Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the Complainant's trademark, which is famous. The use of the letters "gb" conveys the idea that the disputed domain name relates to the Complainant's operations in Great Britain.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name was registered years after the Complainant's trademark has been in use and there has been at least one attempt of fraud as the Respondent sent an email impersonating a partner in the Complainant's United Kingdom office in an effort to get personal information. The disputed domain name does not resolve to a valid website. Furthermore, there is no evidence of demonstrated use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. There is no evidence that the Respondent is commonly known by the disputed domain name nor is there evidence of a conceivable legitimate noncommercial use.

The Complainant contends that the disputed domain name is registered and is being used in bad faith. The domain name is registered for the purpose of collecting personal information from third parties through fraudulent emails. The Respondent is attempting to attract for commercial gain Internet users by creating the likelihood of confusion with the Complainant's trademark. The Respondent's use of the disputed domain name will disrupt the Complainant's business and image.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant owns trademark registrations for KPMG. The Panel is satisfied that the Complainant has established its ownership of the trademark KPMG.

The disputed domain name incorporates the Complainant's trademark in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered trademark, such incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy even if other terms are added as part of the disputed domain name. *E.g.*, *Oki Data Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("*Oki Data*"). The addition of the letters "gb" do not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark.

The generic Top-Level-Domain ("gTLD") ".com" can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

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(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and that there is no evidence of demonstrated use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The nature of the disputed domain name suggests affiliation with the Complainant as it incorporates the Complainant's trademark in full. The use of the letters "gb" reinforces the impression that the disputed domain name is the Complainant's website for Great Britain. Accordingly, the Respondent must have been aware of the Complainant's trademark and business. Furthermore, the Complainant presented in Exhibit 11 an email sent from a server attached to the disputed domain name, in which the Respondent impersonates a member of the Complainant's team. It appears that the Respondent might have plans for phishing or for scams.

Also, the disputed domain name resolves to a PPC page, which contains links to websites of competitors of the Complainant and such use constitutes bad faith. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#) the panel found that "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use." The use of a privacy shield service is under the circumstances a further indication of bad faith.

Accordingly, the Panel finds that 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 <gb-kpmg.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: August 2, 2022