

ADMINISTRATIVE PANEL DECISION

CoryxKenshin LLC v. Amir Ali
Case No. D2023-0900

1. The Parties

The Complainant is CoryxKenshin LLC, United States of America, represented by Carlson, Gaskey & Olds, P.C., United States of America.

The Respondent is Amir Ali, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <corshinemerch.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 28, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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, Privacy service provided by Withheld By Privacy ehf), identified by reference to Annex 8 to the Complaint, and contact information in the Complaint. The Center sent an email communication to the Complainant on March 6, 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 March 12, 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 sent notification to the Respondent of the Complaint, and the proceedings commenced on March 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2023. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent's default on April 3, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on April 11, 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 CoryxKenshin, LLC holds trademark rights for the mark CORYXKENSHIN, which is used with various goods including cell phone cases, wristbands, posters, stickers, apparel, and services including online videos featuring video game reviews, playthroughs, and other content.

The Complainant owns United States Trademark Registration No. 6,482,025 CORYXKENSHIN, registered on September 14, 2021 in classes 25 and 41, with first use on April 6, 2009.

The Complainant is the owner of the domain name <coryxkenshin.com> since February 29, 2016 on which the Complainant sells merchandise, such as hats, shirts, hoodies, water bottles, and stickers, associated with the trademark CORYXKENSHIN.

The Complainant's trademark CORYXKENSHIN is prominently featured on the Complainant's YouTube channel named CoryxKenshin created on April 26, 2009. The Complainant's subscriber count on YouTube has significantly increased over the years, with 7.27 million subscribers in September 2020 and 15.6 million subscribers in February 2023.

The disputed domain name <corshinemerch.com> was registered on August 18, 2022 and resolves to a website which offers goods similar to those offered by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name, <corshinemerch.com>, confusingly similar and nearly identical to the Complainant's trademark CORYXKENSHIN with the deletion of the letters "yxken" in the middle and the addition of the descriptive word "merch". The disputed domain name was registered and used by the Respondent after the Complainant's prior use of the trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name <corshinemerch.com>. The Respondent is using the Complainant's trademark without permission and there is no evidence that the Respondent is commonly known by the disputed domain name. Therefore, there is no legitimate use of the disputed domain name <corshinemerch.com>, and the evidence shows that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant contends that in registering and using the disputed domain name, the Respondent has exhibited a deliberate attempt to benefit from the Complainant's established trademark and associated reputation, indicating bad faith.

The Complainant asserts that Internet users in search of and desiring to procure the products provided on the Complainant's website are prone to being erroneously redirected to the Respondent's website. The disputed domain name used by the Respondent induces, at a minimum, an "initial interest confusion" among online users seeking access to the Complainant's website, resulting in users expending their time and effort in accessing the Respondent's website.

The Respondent has concealed its identity by registering the disputed domain name under the name "Withheld By Privacy ehf," which is a privacy service. Use of a privacy or proxy service is evidence of bad faith, indicating that the Respondent knew it was using the Complainant's trademark without authorization.

The purpose of registering the disputed domain name was likely to sell non-licensed products, and therefore, the disputed domain name should be transferred to the Complainant to prevent further harm and confusion.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall 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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1).

The Complainant has established its rights in the CORYXKENSHIN trademark based on previous trademark registration, which preceded the disputed domain name registration for almost a year and its first use for 13 years.

The Complainant's YouTube channel, operating under the name CoryxKenshin and featuring the promotion of the CORYXKENSHIN trademark, has demonstrated a remarkable growth in popularity over time. This is substantiated by the considerable escalation in subscriber count from 7.27 million in September 2020 to 15.6 million in February 2023. The videos on the CoryxKenshin channel have garnered an impressive number of views. Such a significant increase in subscribers serves as an indication of the widespread recognition and favorable reputation enjoyed by the Complainant's trademark. The rising popularity and recognition of the Complainant's trademark is further evidenced by the substantial growth in subscriber count, which testifies to the well-established reputation of the trademark within its target group.

The Complainant's trademark comprises the personal name "cory", the letter "x", and the part "kenshin". The disputed domain name incorporates the initial part of the trademark "cor-" and the concluding part "-shin", excluding the central portion "yxken" and includes an additional letter "e" following the "-shin" component, which is situated in the middle of the trademark. In comparison to the Complainant's trademark CORYXKENSHIN, the disputed domain name seems to be an abbreviation of the trademark CORYXKENSHIN.

This combination establishes a substantial resemblance between the disputed domain name and the trademark, as it maintains sufficient components of the trademark as to find that it is recognizable with the disputed domain name.

The disputed domain name consists of additional term “merch”, widely recognized as abbreviation for “merchandise”. Additional terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity, as noted in section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11.1 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take gTLD “.com” when assessing confusing similarity of the disputed domain name. Taking into account all of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s CORYXKENSHIN trademark.

Furthermore, in this specific case, the Panel notes the content of the website associated with the disputed domain name to confirm confusing similarity as the Respondent seeks to target the Complainant’s trademark through the disputed domain name (see section 1.15 of the [WIPO Overview 3.0](#)).

The Complainant’s CORYXKENSHIN trademark is recognizable within the disputed domain name and accordingly, the Panel finds that the Complainant has satisfied the first requirement that the disputed domain name is identical or confusingly similar to the Complainant’s registered trademark, under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

The Respondent failed to provide any evidence of authorization to use the CORYXKENSHIN trademark or to register a domain name containing CORYXKENSHIN trademark.

As per the Complainant’s statement, there exists no affiliation or connection between the Respondent and the Complainant, nor has the Complainant bestowed any license or permission upon the Respondent to use or register a domain name containing the Complainant’s trademark. Moreover, the Respondent has failed to respond to the Complaint, consequently did not offered any elements that could potentially substantiate prior rights or legitimate interests in the disputed domain name. The Respondent used the disputed domain name as an online shop selling goods similar to the Complainant’s. Furthermore, no evidence seems to exist regarding the Respondent’s involvement in any legitimate noncommercial or fair use; or a *bona fide* offering of goods or services.

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires a complainant to demonstrate that the respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The fact that the disputed domain name consists of an abbreviation of the Complainant's CORYXKENSHIN trademark, along with the addition term "merch" which has a strong association with the Complainant's operations, indicates that the Respondent was aware of the Complainant and its CORYXKENSHIN trademark. The Respondent used the disputed domain name for an online store, offering unauthorized products pertaining to the Complainant. A quick Internet search would disclose the Complainant's CoryxKenshin YouTube channel and that CORYXKENSHIN is a registered trademark used for clothing, minor merchandise, and services related to video games. The Panel determines that the Respondent was aware of the Complainant and the CORYXKENSHIN trademark when the disputed domain name was registered. Consequently, the Panel asserts that the disputed domain name was registered in bad faith.

It is evident that the Respondent deliberately registered the disputed domain name <corshinemerch.com> to operate an online store offering unauthorized products of the Complainant. Such action was intentionally taken to attract Internet users to the Respondent's website for commercial benefit, by generating confusion regarding the source, sponsorship, affiliation, or endorsement of the Respondent's website in relation to the Complainant's trademark.

As described under paragraph 4(b)(iv) of the Policy, the Respondent is therefore using the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's CORYXKENSHIN trademark.

The Panel concludes that the use of the disputed domain name by the Respondent is in bad faith.

The Panel has observed that the Respondent has been involved in a consistent pattern of conduct, which involves registering domain names that are similar to trademarks that have already been registered, such as in *Gallery Department, LLC v. Amir Ali*, WIPO Case No. [D2022-4219](#); *Siemens AG, Siemens Trademark GmbH & Co. KG v. Amir Ali, Saud Bashir*, WIPO Case No. [D2022-0262](#).

Finally, the Respondent when registering the disputed domain name hidden its identity under "Withheld By Privacy ehf," a privacy service, which is also an indication of bad faith (see section 3.6 of the [WIPO Overview 3.0](#)).

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that consequently, the Complainant has satisfied the requirement under 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, <corshinemerch.com>, be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: April 18, 2023