

ADMINISTRATIVE PANEL DECISION

Ikanbi Group NV and Ikanbi North East NV v. Privacy Protected by Hostnet Case No. D2022-1432

1. The Parties

The Complainants are Ikanbi Group NV, Belgium (the “first Complainant”), and Ikanbi North East NV, Belgium (the “second Complainant”), represented by Fieldfisher LLP, Belgium.

The Respondent is Privacy Protected by Hostnet, the Netherlands.

2. The Domain Name and Registrar

The disputed domain name <ikanbi-ne.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On April 21, 2022, 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 Complainants on April 22, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on April 27, 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 April 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on June 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

The first Complainant is a limited company under Belgian law IKANBI GROUP NV. The second Complainant is its affiliate company IKANBI NORTH EAST NV, a limited company under Belgian law. The companies are dedicated to provide services related to expert contact centers in customer relations.

The first Complainant is owner of the EU trademark registration number 014861504 for IKANBI for classes 35 and 42, filed on December 1, 2015, and registered on April 19, 2016. Such trademark registration covers services related to contact centers in the field of customer relationship management and computing advice and assistance in the field of customer relations management.

The disputed domain name was registered on December 9, 2020, and currently redirects to the Complainants' website.

5. Parties' Contentions

A. Complainants

The disputed domain name <ikanbi-ne.com> is confusingly similar to the Complainants' trademark IKANBI. The additional element "ne" does not exercise any impact in the perception of the disputed domain name as to overweight the importance of the first element "ikanbi". Both the trademark and the disputed domain name are likely to be associated with one and another.

When typing the website address associated with the disputed domain name <ikanbe-ne.com>, the Internet users are automatically redirected to the Complainants' website associated with the address "www.ikanbi.com".

The Respondent has no rights or legitimate interests, trademarks or other, in the disputed domain name. "Ikanbi" is a pure fantasy name, which has no common significance. No license or authorization of any other kind has been given by the Complainants to the underlying registrant or to the Respondent to use the distinctive mark IKANBI or the disputed domain name.

The fact that the IKANBI trademark was registered in April 2016 and has been used intensively at least four years before the disputed domain name was registered by the Respondent, should be considered as an indication that the disputed domain name was registered in bad faith.

In the case at hand, nothing indicates either that the Respondent has had any other purpose than commercial gain.

Furthermore, as generally accepted by UDRP jurisprudence, bad faith should be inferred in one of the following cases:

- Where it appears that a respondent employs a privacy or proxy service merely to avoid being notified of a UDRP proceeding filed against it;
- Where false contact information is provided or an additional privacy or proxy service underlying a privacy or proxy service;
- Where a respondent's use of a privacy or proxy service is known to block or intentionally delay disclosure of the identity of the actual underlying registrant.

All these indications of bad faith are present in the present case.

The Complainants request the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements which a complainant must satisfy in order to succeed. The Complainants must satisfy 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 Panel finds that the first Complainant has established its trademark rights in IKANBI as evidenced by the trademark registration submitted with the Complaint, as mentioned above.

The disputed domain name is confusingly similar to the trademark IKANBI. The addition of the dash "-" and the "ne" term does not alter this conclusion.

Therefore, the Panel finds that the Complainants have satisfied the first requirement of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainants have not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the trademark. The first Complainant has prior rights in the trademark which precedes the Respondent's registration of the disputed domain name by at least four years. The Complainants have therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name and thereby shifted the burden to the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trademark rights in respect of the disputed domain name or that the disputed domain name is used in connection with a *bona fide* offering of goods or services.

Therefore, the Panel finds that the Complainants have satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainants must prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainants' allegations with regard to the Respondent's registration and use of the disputed domain name in bad faith have been considered by the Panel. These allegations have not been contested by the Respondent.

In the instant case, the Panel considers that the Respondent must have had knowledge of the Complainants' rights in the IKANBI trademark when it registered the disputed domain name, since the disputed domain name redirects to the Complainants' website, and it reproduces the IKANBI trademark in its entirety with the letters "NE" which could be an acronym of the terms "North East" included in the corporate name of the second Complainant Ikanbi North East.

As regards bad faith use, the Complainants have demonstrated that the disputed domain name is used for redirecting the Internet users to the Complainants' official website. This can establish bad faith as the Respondent retains control over the redirection thus creating an implied ongoing threat to the Complainants (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4).

The Panel also considers the following factors to further suggest bad faith: (i) the failure of the Respondent to submit a response, and (ii) the concealment of the disputed domain name holder's identity through use of a privacy shield at the time of filing of the Complaint.

Under these circumstances and on this record, the Panel finds no good-faith basis for the Respondent's conduct vis-à-vis the disputed domain name.

The Complainants have established Policy paragraph 4(a)(iii).

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 <ikanbi-ne.com> be transferred to the Complainants.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: June 16, 2022