

## **ADMINISTRATIVE PANEL DECISION**

Knix Wear Inc. v. Mayandican  
Case No. D2022-1550

### **1. The Parties**

The Complainant is Knix Wear Inc., Canada, represented by Mosaic Legal Group, PLLC, United States of America (“United States” or “US”).

The Respondent is Mayandican, US.

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

The disputed domain name <knix-outlet.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2022. On April 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 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 May 6, 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 May 6, 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 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on June 7, 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 Knix Wear Inc., which owns trademark registrations for KNIX in many jurisdictions, including the United States Registration No. 4971267 of June 7, 2016 and the Australian Registration No. 2007545 of May 7, 2019.

The disputed domain name was registered on March 31, 2022 and resolves to a website offering items apparently identical and/or similar to the Complainant's products.

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

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

The Complainant informs that the disputed domain name is identical or confusingly similar to its trademark KNIX. In addition, the Complainant says that "Knix" has no meaning other than as a coined term and that "outlet" is a generic term.

Additionally, the Complainant argues that the Respondent has not been authorized to use its trademark, that it is not commonly known by the disputed domain name, and that it has no rights or legitimate interests in respect of it.

According to the Complainant, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name but is instead using it in bad faith, as it resolves to a website offering the same goods as the Complainant's and even reproducing the Complainant's website images to divert consumers for commercial gain.

The Complainant also informs that the Respondent displays a statement in the website saying that "We have been operating for over one year and we have managed to build up a reputable establishment online", which is not legitimate as the disputed domain name was created on March 31, 2022. Furthermore, the website corresponding to the disputed domain name mentions in the section "Contact Us" that the company is located in an address in the State of Iowa, in the United States, and according to the Complainant this does not seem to be legitimate as well.

The Complainant argues that the Respondent registered the disputed domain name in bad faith for the purpose of intentionally attempting to attract for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's trademark KNIX.

Finally, the Complainant requests the transference of the disputed domain name.

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

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

## 6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 in bad faith.

### A. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of trademark registrations for KNIX in different countries.

The disputed domain name incorporates the Complainant's trademark KNIX in its entirety. The addition of the term "outlet" does not avoid a finding of confusing similarity between the disputed domain name and the Complainant's trademark, as the Complainant's trademark is recognizable within the disputed domain name.

It is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, or otherwise) to a trademark in a domain name would not prevent a finding of confusing similarity under the first element of the UDRP. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")

As numerous prior UDRP panels have also recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

### B. Rights or Legitimate Interests

The Respondent has not submitted any response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the Complainant's trademark KNIX.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made 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. Moreover, the term "outlet" in the disputed domain name gives the idea that the disputed domain name refers to a website where Complainant's products can be purchased at a discounted price. Thus, the construction of the disputed domain name itself is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1, [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

The trademark KNIX is registered by the Complainant in different jurisdictions and the disputed domain name incorporates it in its entirety. The Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant's KNIX mark is very distinctive. Thus, a domain name that comprises such a mark with the term "outlet" is undoubtedly suggestive of the registrant's bad faith.

The disputed domain name includes the term "outlet", which in this case may indeed serve as an additional evidence of the registration of the disputed domain name in bad faith, considering that such term is totally related to the Complainant's business activities. It is easy for a consumer to be deceived into thinking that the website corresponding to the disputed domain name refers to a platform for discounted "KNIX" products, even more with the reproduction of the same images/photographs from the Complainant's original website.

Finally, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#): "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark and that the Respondent's attempt of taking undue advantage of the trademark KNIX for as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used in bad faith.

### **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 <knix-outlet.com> be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: June 21, 2022