

ADMINISTRATIVE PANEL DECISION

The Knowledge Academy Holdings Limited v. Howard Kaplan, BASA
Case No. D2022-3919

1. The Parties

The Complainant is The Knowledge Academy Holdings Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Howard Kaplan, BASA, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <theknowledgeacademy.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 October 19, 2022. On October 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 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 October 20, 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 October 21, 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 November 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 29, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on December 12, 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 The Knowledge Academy Holdings Limited, a British company incorporated on July 4, 2013 and seated in Berkshire, United Kingdom. The Complainant is the holding company of The Knowledge Academy Limited, which was incorporated on April 1, 2009 which is a business and IT training company responsible for globally providing training solutions to corporate, public sector, multinational organizations, and private individuals.

The Complainant offers these services worldwide under the name and trademark THE KNOWLEDGE ACADEMY, which is registered in the European Union, United States, Australia, New Zealand, United Kingdom, and United Arab Emirates, for example, International trademark registration No. 1269174 for THE KNOWLEDGE ACADEMY, registered on April 22, 2015. Proofs of these registrations were duly produced as Annex 2 to this Complaint.

The Complainant also owns a portfolio of domain names including the referred mark THE KNOWLEDGE ACADEMY, such as <theknowledgeacademy.com> which was registered on March 9, 2009; and <theknowledgeacademy.co.uk> which was also registered on March 9, 2009. Evidence of the referred portfolio is presented as Annex 3 to the Complaint.

The disputed domain name was registered on October 13, 2022 and resolves to a website featuring links to third-party websites, some of which directly compete with the Complainant's business.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark THE KNOWLEDGE ACADEMY registered and used worldwide. In fact, the only distinctive words integrating the disputed domain name are "the knowledge academy", which is identical to the Complainant's registered mark, with no dictionary signification.

The intentional inversion of the letters "e" and "a" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark. In fact, this swapping is not distinctive in its own right and is likely to be disregarded by consumers, meaning "knowledga" will be perceived as "knowledge" and "ecademy" as "academy" in the disputed domain name. The Complainant further argues that it is clear case of typosquatting.

Further, the disputed domain name adopted by the Respondent is confusingly similar to the Complainant's registered rights. The Respondent is trying to take advantage of the THE KNOWLEDGE ACADEMY trademark to draw traffic to the website, which shows a clear intention of misleading the Internet users.

The disputed domain name resolves to a website featuring links to third-party websites, which directly compete with the Complainant's business. In addition, the parking page contains a link at the top of the page using the logo "Name Cheap" (the Registrar), which redirects the user to the Name Cheap marketplace, where users are given the option to click the "Make Offer" button and offer an amount to buy the disputed domain name. In short, this is evidence that the disputed domain name is for sale.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by the Complainant to obtain relief. These elements are:

- (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 Complainant has presented evidence of ownership of the trademark THE KNOWLEDGE ACADEMY in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark to identify the original services for over ten years.

The disputed domain name is, indeed, confusingly similar to the THE KNOWLEDGE ACADEMY trademark. It clearly shows the Complainant's mark with inversion of the letters "e" and "a", which can be seen as an example of typosquatting.

The use of the trademark with the alternate letter in the disputed domain name— simply swapping the "e" and the "a" — does not prevent a finding of confusing similarity, as the Complainant's trademark is recognizable within the disputed domain name. Further, the letter change can be also considered a common misspelling. Misspelling is indeed a fact which typosquatters normally take profit from by giving Internet users the impression that the disputed domain name belongs to the Complainant.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

The Panel understands that the mark THE KNOWLEDGE ACADEMY is naturally associated with the Complainant, since it is not only registered as a mark in its name, but also has been used to identify its services for over ten years.

Further, the Complainant provided sufficient evidence of the renown of the mark THE KNOWLEDGE ACADEMY and the full range of services offered under this name to its clients all over the world.

The Respondent is using the disputed domain name to redirect Internet users to a website featuring links to third-party websites, some of which directly compete with the Complainant's business. This use cannot give rise to rights or legitimate interests of the Respondent in the disputed domain name. Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark THE KNOWLEDGE ACADEMY, and its direct relation to the Complainant.

The Panel is satisfied that the Complainant has made out a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. This has not been rebutted by the Respondent, in the absence of a Response.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The disputed domain name was registered to clearly mislead the Internet users – hence the inversion of the letters “e” and “a”, in a typical case of cybersquatting.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may be intended to capitalize on the fame and goodwill of the Complainant's trademarks. The fact that the disputed domain name resolves to a website offering links to several services, including some of which are direct competitors to the Complainant and its business, supports a finding of bad faith in these circumstances.

In addition to the above, the referred web page contains a link at the top redirecting the user to the Name Cheap marketplace, where users are given the option to click the “Make Offer” button and offer an amount to buy the disputed domain name.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element 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, <theknowledgaecademy.com>, be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: 26 of December 2022