

ADMINISTRATIVE PANEL DECISION

CK Franchising, Inc. v. Dorothy Felix
Case No. D2023-0129

1. The Parties

Complainant is CK Franchising, Inc., United States of America (“United States”), represented by Areopage, France.

Respondent is Dorothy Felix, United States.

2. The Domain Name and Registrar

The disputed domain <comfortkeepershomecareservices.solutions> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2023. On January 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to Complainant on January 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 25, 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 notified Respondent of the Complaint, and the proceedings commenced on January 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. The Center received an informal communication from Respondent on January 30, 2023. The Center proceeded to panel appointment on March 6, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 20, 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

Complainant is a multinational company based in the United States. For years prior to the registration of the disputed domain name, Complainant has offered in-home care services under the mark COMFORT KEEPERS. Complainant is the owner of several trademark registrations for COMFORT KEEPERS mark in various jurisdictions. These include, among others, United States Registration No. 2366096 (registered July 11, 2000). Complainant also owns several registrations for domain names that include its COMFORT KEEPERS mark. Among these are the domain name <comfortkeepers.com>, which Complainant uses to connect with prospective consumers online.

The disputed domain name was registered on December 20, 2022. The disputed domain name is not currently linked to an active website. Respondent nevertheless has no affiliation with Complainant, nor any license to use Complainant's marks.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns registrations for COMFORT KEEPERS mark, which is "consistently recognized" and for which Complainant has received awards as a "leader" in "senior home care." Complainant contends that Respondent has incorporated in full its COMFORT KEEPERS mark into the disputed domain name with only the addition of the dictionary terms "homecareservices," which Complainant contends is descriptive of the sector in which Complainant operates.

Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith, having simply acquired the disputed domain name for Respondent's own commercial gain, likely in order to confuse consumers seeking web-based information about Complainant and its goods and services.

B. Respondent

As noted, Respondent sent an informal communication to the Center stating "YOU ARE NOTHING BUT A STUPID CRIMINALS. GO AND GET A JOB LIKE YOUR MATES. IDIOT". Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name <comfortkeepershomecareservices.solutions> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates in full Complainant's registered COMFORT KEEPERS mark with only the addition of the dictionary terms "homecareservices," which Complainant contends is descriptive of the sector in which Complainant operates, and the Top-Level Domain ".services."

Numerous UDRP panels have agreed where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights for purposes of paragraph (4)(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest", as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that respondent has been "commonly known by the domain name"; or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

No evidence has been presented to the Panel that might support a claim of Respondent's rights or legitimate interests in the disputed domain names, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

D. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, the disputed domain name is not currently linked to an active website. It is nevertheless well established that passively holding a disputed domain name does not necessarily shield a respondent from a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the "non-use of a domain name" does not necessarily negate a finding of bad faith. Rather, a panel must examine "the totality of the circumstances", including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here did not formally respond to the Complaint, and used a privacy service. Respondent provided an undeliverable address to the Registrar. Given Complainant's multinational presence and apparent renown in its industry, the Panel finds that Respondent was likely aware of Complainant's trademark rights at the time of registering the disputed domain name. See also *CK Franchising, Inc. v. Domains By Proxy, LLC, DomainsByProxy.com/Dorothy Felix, Health care services*, WIPO Case No. [D2022-1729](#) (transferring <comfortkeepershomecareservice.com>); and *CK Franchising, Inc. v. Registration Private, Domains By Proxy, LLC/Dorothy Felix, Health care services* WIPO Case No. [D2022-1426](#) (transferring <comfortkeepershomecareservices.com>). The Panel notes that the disputed domain name was registered after those decisions were issued, with these and other UDRP decisions finding bad faith by Respondent in the registration and use of Complainant's COMFORT KEEPERS mark.

Therefore, the Panel finds sufficient evidence that Respondent registered and used the disputed domain name in bad faith for purposes of 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 <comfortkeepershomecareservices.solutions> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: April 3, 2023