

## **ADMINISTRATIVE PANEL DECISION**

Inter IKEA Systems B.V. v. Delson Devassy  
Case No. D2023-1453

### **1. The Parties**

The Complainant is Inter IKEA Systems B.V., Netherlands, represented by Fidus Law Chambers, India.

The Respondent is Delson Devassy, India.

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

The disputed domain name <ikeainkeraladeliveryservice.com> is registered with BigRock Solutions Pvt Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the following day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details for the disputed domain name. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint on April 14, 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 the Respondent of the Complaint, and the proceedings commenced on April 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 25, 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 is a company within the franchise division of the Inter IKEA Group, which group also includes service companies and companies selling IKEA products to franchisees in certain markets. There are 471 IKEA retail stores in 64 countries, including India, where the first IKEA retail store opened in Hyderabad in 2018. The Complainant holds multiple trademark registrations in multiple jurisdictions, including the following;

- Indian trademark registration number 343317 for IKEA, registered from December 2, 1978, specifying goods in class 20; and
- Indian trademark registration number 1523574 for a semi-figurative mark in colors featuring the textual element IKEA (the "IKEA logo"), registered from January 15, 2007, specifying goods in class 20.

The above trademark registrations remain current. The Complainant has also registered multiple domain names that incorporate "ikea", including <ikea.com> that it registered in 1995 and uses in connection with a website where it provides information about itself and its products.

The Respondent is an individual based in India. His contact street address in the Registrar's Whols database is incomplete.

The disputed domain name was created on October 20, 2022. It resolves to an online store for WIKADS Home Furnishings with an address in Kerala, India, and a contact address in Bengaluru "behind IKEA Furniture Store". The site offers furniture and homewares. Most webpages on the site display a WIKADS Home Furnishings logo. The site displays photographs of furniture and home décor with taglines such as "IKEA Dining furniture has something for everyone" and "IKEA Bedroom furniture and idea for any style and budgets". The About Us page explains that WIKADS was founded in 2022 by "3 friends retired from various IKEA Middle East stores" who met with the intention of starting a company or interior home décor consultancy "based on IKEA products", and who came up with the idea of attempting to make it available in Kerala and Tamil Nadu where "IKEA furniture [is] presently not or the present stores are very far away from these two States". The same page states that "[W]e are presently associated with IKEA, along with distributing own design in solid woods brand named as WIKADS". Under the subtitle "Get in touch", the site includes a disclaimer stating that "WIKADS is not affiliated with IKEA Systems B.V. or any of its affiliates", and "WIKADS does not work for IKEA in any capacity and does not represent or work with any entity managed, owned, or operated by IKEA". A page titled "Our Services" is subtitled "Bringing your IKEA furniture to life" and lists "shopping from home; design & planning your room; delivery service; shopping from IKEA store; measuring service; assembly service." The page also displays a photograph of an IKEA store and allows Internet users to "shop by brand" by selecting either the IKEA logo or a WIKADS logo.

The Complainant sent a cease-and-desist letter dated December 12, 2022, to the contact email address shown on the website associated with the disputed domain name.

#### 5. Parties' Contentions

##### A. Complainant

The disputed domain name is confusingly similar to the Complainant's IKEA mark. The disputed domain name gives the impression that the Respondent is offering the services of delivering IKEA products in Kerala, India.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The sole purpose of the registration is to misappropriate the reputation associated with the Complainant's famous trademark IKEA. The Complainant has not authorized the Respondent to use its trademark, trade name or trading style. None of the exemptions provided in paragraph 4(c) of the Policy apply.

The disputed domain name was registered and is being used in bad faith. The primary aim of the Respondent is to disrupt the business of the Complainant as well as take advantage of the goodwill and reputation associated with the Complainant's trademarks. It is clear from the fact that the Respondent registered the disputed domain name for the sole purpose of designing the website to mislead consumers. By doing so, the Respondent has intentionally attempted to create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements;

- (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.

Failure to prove any one of the above elements will result in denial of the Complaint. The burden of proof of each element is borne by the Complainant.

### **A. Identical or Confusingly Similar**

Based on the evidence presented, the Panel finds that the Complainant has rights in the IKEA mark.

The disputed domain name wholly incorporates the IKEA mark as its initial element. It adds the words "in Kerala delivery service" but the addition of these words does not prevent a finding of confusing similarity because the IKEA mark remains clearly recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The only other element in the disputed domain name is the generic Top-Level Domain ("gTLD") ".com". As a standard requirement of domain name registration, this element may be disregarded in the comparison between a domain name and a trademark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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.

With respect to the first and third circumstances set out above, the disputed domain name resolves to an online store for WIKADS Home Furnishings. The IKEA logo, IKEA store photograph and IKEA taglines on the site give the impression that it is affiliated with the Complainant. While there is an express disclaimer of any affiliation with the Complainant, that disclaimer is not prominent and it is also contradicted by an express statement of affiliation with the Complainant, with the result that it is ineffective in dispelling the impression of affiliation created by the rest of the site. The Complainant submits that it has not authorized the Respondent to use its trademark, trade name or trading style. While the IKEA products that the site offers may be sourced from authorized IKEA stores, the website indicates that it not only sells the Complainant's products but also WIKADS Home Furnishings own brand. All these circumstances indicate that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods and services. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) and [WIPO Overview 3.0](#), section 2.8.1. Given that the Respondent's website is clearly commercial, this does not constitute a legitimate noncommercial or fair use of the disputed domain name either.

With respect to the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as "Delson Devassy", not the disputed domain name. Nothing on the record indicates that the Respondent has been known as the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because she did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

(iv) by using the [disputed] domain name, [the Respondent has] intentionally attempted 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 mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] website or location or of a product or service on [the Respondent's] website or location.

The Respondent registered the disputed domain name in 2022, years after the Complainant obtained its trademark registrations, including in India, where the Respondent is based. The disputed domain name wholly incorporates the Complainant's IKEA trademark as its initial element and combines it with the words "in Kerala delivery service". The site states that its founders are retired from IKEA stores and makes references to the Complainant and its business; it also displays the IKEA logo and a photograph of an IKEA store. In view of these circumstances, the Panel has no doubt that the Respondent was aware of the Complainant and its IKEA trademark at the time when he registered the disputed domain name.

The Respondent uses the disputed domain name, which is confusingly similar to the Complainant's IKEA trademark, in connection with a website that falsely claims, and gives the false impression, that it is affiliated with the Complainant, despite a non-prominent disclaimer of affiliation. Further, the website offers for sale not only the Complainant's products but also WIKADS Home Furnishings own brand of products. Given these circumstances and the findings in section 6.2.B above, the Panel finds that this use of the disputed domain name intentionally attempts to attract, for commercial gain, Internet users to the website by creating

a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the products on that website as described in paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <ikeainkeraladeliveryservice.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 5, 2023