

ADMINISTRATIVE PANEL DECISION

Khadi & Village Industries Commission v. 张存硕 (Cun Shuo Zhang)
Case No. D2024-1826

1. The Parties

Complainant is Khadi & Village Industries Commission, India, represented by Fidus Law Chambers, India.

Respondent is 张存硕 (Cun Shuo Zhang), China.

2. The Domain Names and Registrar

The disputed domain name <khadiorganik.com> is registered with Cloud Yuqu LLC; the disputed domain names <khadiorgenic.com> and <khadiorgnic.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (Cloud Yuqu LLC and Chengdu West Dimension Digital Technology Co., Ltd. are hereinafter referred to as the "Registrars").

3. Procedural History

The Complaint was filed in English regarding the disputed domain name <khadiorgenic.com> with the WIPO Arbitration and Mediation Center (the "Center") on April 30, 2024. Complainant also submitted another two Complaints in English regarding the other two disputed domain names respectively on the same day. On May 1, 2024, the Center transmitted by email to the Registrars respectively a request for registrar verification in connection with the disputed domain names. On May 6, 2024, the Registrars transmitted by email to the Center their verification responses respectively disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (private) and contact information in the Complaint. The Center sent email communications respectively to Complainant on May 6, 2024, providing the registrant and contact information disclosed by the Registrars, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on May 9, 2024 requesting to consolidate three disputed domain names into this proceeding because the underlying registrant is the same for these three disputed domain names. In response to the Center's email regarding the information of the Registrars, Complainant filed another amended Complaint on May 15, 2024. The Center terminated the other two proceedings on May 15, 2024.

On May 6, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreements for the disputed domain names is Chinese. On May 9, 2024, Complainant submitted its request that English be the language of the proceeding. Respondent did not submit any comment on Complainant's submission.

The Center verified that the Complaint together with the amended Complaints 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 in Chinese and English of the Complaint, and the proceedings commenced on May 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 12, 2024.

The Center appointed Yijun Tian as the sole panelist in this matter on June 18, 2024. 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

A. Complainant

Complainant, Khadi & Village Industries Commission, is a statutory body formed in April 1957 by the Government of India under the Khadi and Village Industries Commission Act of 1956. It generates employment in about 248,000 villages nationwide, promoting products under the trademark KHADI and implementing the Prime Minister’s Employment Generation Programme (PMEGP) to uplift artisans, weavers, and members of small-scale village and rural industries.

Complainant has rights in the KHADI related marks. Complainant is the owner of numerous KHADI trademarks in various jurisdictions, including the Indian trademark registration for KHADI, registered on November 27, 2014 (registration number: 2851542); and the Mexican trademark registration for KHADI, registered on August 10, 2021 (registration number: 2284520) (Annexes D and E to the Complaint).

B. Respondent

Respondent is 张存硕 (Cun Shuo Zhang), China.

- The disputed domain names <khadiorganic.com> and <khadiorgnic.com> were registered (with Chengdu west dimension digital technology Co., Ltd.) by Respondent on January 13, 2024 and January 15, 2024, respectively.
- The disputed domain name <khadiorganik.com> was registered (with Cloud Yuqu LLC) by Respondent on January 15, 2024.

According to the Complaint and relevant evidence provided by Complainant, all disputed domain names previously resolved to pay-per-click (“PPC”) websites in English, which contained links for products and services, some of which competed with Complainant, such as the links labelled as “Village Project”, and “Non Woven Material Suppliers” (Annex J to the Complaint). All disputed domain names currently resolve to inactive websites.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain names are confusingly similar to its trademark, KHADI. These disputed domain names incorporate the KHADI trademark in full and append misspellings of “organic” - “orgnic”, “orgenic”, and “organik”. Since “organic” is a generic term referring to products grown without

artificial chemicals, its use does not differentiate these disputed domain names from the KHADI trademark. Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain names.

Complainant contends that the disputed domain names were registered and are being used in bad faith.

Complainant requests that the disputed domain names be transferred to it.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreements for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) Complainant is an Indian statutory government organisation and does not understand Chinese.
- (b) The KHADI trademark infringed by Respondent is registered in India and recognised as a well-known trademark by several UDRP panels and Indian courts.
- (c) The disputed domain names are registered in the English language.
- (d) The disputed domain names deliberately misspell the English word "organic."
- (e) The disputed domain names are parked with click links in English.
- (f) Complainant would incur significant costs and additional burden if the Complaint and evidence had to be translated into Chinese.

Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

On the record, Respondent, appears to be located in China and are thus presumably not native English speaker, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain names are registered in Latin characters and include a misspelling English word "organic"), rather than Chinese script; (b) the generic Top-Level Domain ("gTLD") of the disputed domain names is ".com", so the disputed domains names seem to be prepared for users worldwide, particularly in English speaking countries; (c) the webpages which the disputed domain names resolve to

are in the English language; (d) the Center has notified Respondent of the language of the proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant's request that English be the language of the proceeding; and (e) the Center also notified Respondent in both Chinese and English of the Complaint, and informed Respondent that it would accept a response in either English or Chinese, but Respondent chose not to file any response.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues: Three Elements

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the KHADI mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, "orgnic", "orgenic", and "organik" (misspelled versions of the English dictionary word "organic") may bear on the assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

More specifically,

(i) there has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons

to justify the choice of the term “khadi”, Complainant’s KHADI trademark, in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the KHADI marks or to apply for or use any domain name incorporating the KHADI marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2024, long after the KHADI marks (registered as a trademark since 2014) became widely known. The disputed domain names are confusingly similar to Complainant’s KHADI marks; and

(iii) there has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. By contrast, the disputed domain names resolved to PPC websites, which contained links for products and services, some of which competed with Complainant. It seems that Respondent is making profits through the Internet traffic attracted to the websites under the disputed domain names. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); *Pet Plan Ltd. v. 权中俊 and 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3358](#).) All disputed domain names currently resolve to inactive websites.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that Respondent has registered and used the disputed domain names in bad faith.

The Panel finds that Complainant has a widespread reputation in the KHADI marks with regard to its products and services. As mentioned above, Complainant was formed in April 1957. It generates employment in about 248,000 villages nationwide, promoting products under the trademark KHADI and implementing the PMEGP to uplift artisans, weavers, and members of small-scale village and rural industries. It has registered its KHADI marks in India (since 2014) and Mexico (since 2021). Therefore, it is more likely than not that Respondent was aware of Complainant’s trademark at the time of the registration of the disputed domain names (in 2024). Thus, the Panel concludes that the disputed domain names were registered in bad faith.

Respondent has used the websites resolved by the disputed domain names for displaying PPC links to third-party commercial websites, some of which compete with Complainant’s business. Thus, the Panel concludes that Respondent has used the confusingly similar disputed domain names with the intention to attract, for commercial gain, Internet users to Respondent’s websites by creating a likelihood of confusion with Complainant. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy. The current non-use of the disputed domain names does not change the Panel’s finding on Respondent’s bad faith.

In summary, Respondent, by choosing to register and use the disputed domain names, which is confusingly similar to the KHADI marks, intended to ride on the goodwill of these trademarks in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain names and the conduct of Respondent as far as the websites to which the disputed domain names resolved were indicative of registration and use of the disputed domain names in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names <khadiorganik.com>, <khadiorgenic.com>, and <khadiorgnic.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: July 1, 2024