

ADMINISTRATIVE PANEL DECISION

Jacobs Douwe Egberts GB LTD v. cai fa
Case No. D2024-4655

1. The Parties

The Complainant is Jacobs Douwe Egberts GB LTD, United Kingdom (“UK”), represented by Ploum, Netherlands (Kingdom of the).

The Respondent is cai fa, United States of America (“USA”).

2. The Domain Names and Registrar

The disputed domain names <cat-kenco.com>, <in-kenco.com>, and <kc-kenco.com> are registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 12, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 14, 2024, 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. The Center verified that the 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 11, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on December 19, 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

The Complainant is a UK company and is a part of Jacobs Douwe Egberts (a group of companies, which is an international coffee and tea company headquartered in the Netherlands (Kingdom of the)). Jacobs Douwe Egberts was formed in 2015 by merging D.E. Master Blenders founded in 1753, and the coffee division of Mondelez International. The group's coffee and tea portfolio are available in over 100 countries around the world.

The Complainant is the owner of numerous earlier KENCO trademarks registered in various jurisdictions, including KENCO word trademark registered in the European Union on December 8, 1999 under the registration number 000031104, for goods in classes 9, 11, 21, and 30 of International Classification ("IC"), KENCO (word) International Registration number 752188A registered on February 21, 2001, for goods in Class 30 of IC, and KENCO word trademark registered in the UK on May 30, 1997, under the registration number UK00002113688 for goods and services in Classes 21, 35, 37 and 43 of IC ("KENCO trademark").

The Complainant and its affiliated companies own and operate websites at numerous domain names including domain names incorporating KENCO trademark, i.e. <kenco.co.uk>, and <kenco.ie>.

The disputed domain names <cat-kenco.com>, <in-kenco.com>, and <kc-kenco.com> were all registered on March 26, 2024. The disputed domain names <cat-kenco.com>, <in-kenco.com> resolved to identical login websites displaying the Complainant's logo, and the disputed domain name <kc-kenco.com> resolved to a parked page indicating that the webpage could not be accessed, and was displayed on a Facebook page "kc-kenco".

The Complainant contends that the disputed domain names are used for fraudulent activities. The Complainant argues that it first learned about the fraudulent activities after receiving customers' complaints. Different customers reached out to the Complainant via phone and email believing that they bought shares in an investment related to the Complainant. The customers expressed their concerns as they had transferred large sums of money to the Respondent and also provided their credit card details, as well as their personal information on these websites in order to purchase the shares. The Complainant posted on its official website the alert, warning customers about the scam. The Complainant requested the take-down of the websites created under the disputed domain names, and the Registrar immediately took down these websites. As the Whois records provided the contact details of the privacy service, the Complainant reached out to it and requested to remove privacy shield. The privacy shield was removed and contact details of the Respondent were available.

The Complainant has tried reaching out to the Respondent by sending letters on September 25, 2024, and October 25, 2024, but never received a response from the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

(i) The disputed domain names <cat-kenco.com>, <in-kenco.com>, and <kc-kenco.com> are confusingly similar to KENCO trademark, as they all incorporate the Complainant's KENCO trademark in its entirety. To this the Respondent has added a combination of two or three letters, i.e., "cat", "in", and "kc" followed by a dash (hyphen). KENCO trademark is the dominant element and recognizable as such.

(ii) The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent only makes use of the websites to which the disputed domain names resolved for fraudulent activities, i.e. scamming customers into buying fake shares in KENCO brand. The Respondent is not commonly known by the disputed domain names, or any variation thereof. The Respondent is not affiliated with the Complainant and the Complainant has not licensed or otherwise permitted the Respondent to use KENCO trademark or to register a domain name incorporating KENCO trademark. There is no evidence of the Respondent making use of the disputed domain names in connection with a bona fide offering of goods or services. The Respondent did not make demonstratable use of the disputed domain names in connection to a bona fide offering of goods and services.

(iii) The disputed domain names were registered and are being used in bad faith. KENCO trademark is well-known in the world, it is highly distinctive and given the great similarities between KENCO trademark and the disputed domain names, the Respondent must have been aware of the Complainant, KENCO trademark, domain name and website associated with the Complainant and the good will associated with it, when the Respondent registered the disputed domain names. The Respondent's websites prominently displayed the Complainant's KENCO trademark.

The Respondent has used the disputed domain names for fraudulent activities. Two of the disputed domain names resolved to unauthorized and misleading websites which offered stock shares in KENCO brand for sale, supposedly coming from the Complainant. The Complainant's KENCO trademark and logo were reproduced on the fraudulent websites linked to the disputed domain names. Noting that no clarification as to the Respondent's relationship with the Complainant is made, Internet users were led to believe that the websites were either the Complainant's websites or were run by official authorized agents of the Complainant. The Respondent purports to be an employee of the Complainant who came to South Africa to introduce KENCO coffee business in South Africa. The Respondent's registration of the disputed domain names shows the Respondent's intent to rely on a risk of confusion with the Complainant's activity and trademark as to the source, sponsorship, affiliation or endorsement of the disputed domain names and the websites associated with them.

B. Respondent

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

6. Discussion and Findings

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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of KENCO trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms here "cat", "in", and "kc" followed by a dash (hyphen) may bear on 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 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain “.com” is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel concludes that the Complainant has met the requirements of paragraph 4(a)(i) of the Policy by proving its rights to the KENCO trademark and demonstrating that the disputed domain names are confusingly similar to its KENCO trademark.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the 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.

The Respondent is not authorized by the Complainant to use KENCO trademark, and there is no indication that the Respondent is known under the disputed domain names. There is no apparent relation from the records between the Respondent and the Complainant, neither does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its trademark, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain names in connection with bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain names. On the contrary, based on the uncontested evidence, the Respondent is using the disputed domain names for fraudulent activities. The Respondent has failed to provide a response to the Complainant, and accordingly failed to rebut the Complainant’s prima facie case showing that the Respondent has no rights or legitimate interest in the disputed domain name.

Panels have held that the use of a domain name for illegal activity here, impersonating/passing off, and fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the Respondent has used the disputed domain names for fraudulent activities. The disputed domain names resolved to unauthorized and misleading websites which offered for sale stock shares in the Complainant's KENCO brand for sale. The Complainant's KENCO trademark and logo were reproduced on the fraudulent websites linked to the disputed domain names. Internet users were misled to believe that the websites were either the Complainant's websites or were run by official authorized agents of the Complainant. The Consumers expressed their concerns to the Complainant as they had transferred large sums of money and also provided their credit card details, as well as their personal information in order to purchase the shares. The Complainant posted on its official website the alert, warning customers about the Respondent's scam.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, here, impersonating/passing off and fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

This Panel accepts that the Complainant's KENCO trademark is well-known within the coffee and tea industry and is highly distinctive. Taking into consideration all circumstances and evidence presented, the Panel believes that the Respondent was aware of the Complainant and its KENCO trademark when it registered the disputed domain names, particularly when considering the use to which the disputed domain names were put (fraudulently offering for sale shares of the Complainant's KENCO brand). The Respondent's websites created under the disputed domain names contained the Complainant's KENCO trademark.

The Panel is of the opinion that, by registering and using the disputed domain names that contain the Complainant's KENCO trademark, the Respondent is attempting to take advantage of the Complainant's reputation, and well-known trademark.

In this Panel's view, the Respondent is, by using KENCO trademark in the disputed domain names, intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant and its KENCO trademarks. It is well established that if a respondent has intentionally attempted to attract for commercial gain by creating a likelihood of confusion with the complainant's trademark it is an indicator of bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established 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 names <cat-kenco.com>, <in-kenco.com>, <kc-kenco.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: December 31, 2024