

ADMINISTRATIVE PANEL DECISION

KW Vermögensverwaltung GmbH v. kevin schmidt
Case No. D2025-0094

1. The Parties

The Complainant is KW Vermögensverwaltung GmbH, Germany, represented by Bird & Bird LLP, Germany.

The Respondent is kevin schmidt, Germany.

2. The Domain Name and Registrar

The disputed domain name <kathewohlfahrt-de.com> is registered with Mat Bao Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2025. On January 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2025, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 13, 2025, 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 amendment to the Complaint on January 13, 2025.

The Center verified that the Complaint together with the amendment to 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 January 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2025.

The Center appointed Dietrich Beier as the sole panelist in this matter on February 12, 2025. 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 German business entity which owns, inter alia, the International Registration No. 556594 for KÄTHE WOHLFAHRT, registered on August 10, 1990 in several classes; and International Registration No. 1664469 for KÄTHE WOHLFAHRT, registered on January 21, 2022 in several classes, including several christmas gift articles such as decorations for christmas trees, both being in effect. The Complainant's online shop can be found under "www.kaethe-wohlfahrt.com".

The Respondent's identity was initially protected under a privacy shield. The address revealed after the disclosure of the name and address by the Registrar, does not exist in Germany, the zip code does not exist either.

The disputed domain name was registered on April 24, 2024.

The disputed domain name shows under the KÄTHE WOHLFAHRT trademark a website purportedly offering the Complainant's products at discounted prices. The website is in German whereas certain sections such as "Versand" (means delivery) are in English. Other sections such as the data protection guideline or the terms and conditions are empty or cannot be displayed. No imprint or concrete address data can be found.

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 the disputed domain name is highly similar to the trademark of the Complainant. Furthermore, the Respondent offers the Complainant's original products using original pictures on the website under the disputed domain name. All goods are offered at a discounted price. There is no imprint, and the terms and conditions and further guidelines seem to be insufficient.

The Complainant contends that it has not agreed to the Respondent's registration of the disputed domain name and has not given the Respondent any respective license or any other right to use or register the sign as a domain name. Besides, there are no economical connections between the Parties that might authorize the Respondent to register the disputed domain name. The Complainant has not found that the Respondent has any registered trademarks or trade names corresponding to the disputed domain name.

Since the disputed domain name is currently linked to a website offering various products using the pictures of the Complainant's products and the website copies various elements from the Complainant's own website including the Complainant's trademarks, and no information on who is operating the website can be found, the website therefore provides the impression that it serves fraudulent purposes as the offered products that are taken inter alia from the Complainant's shops will most likely not be provided to its buyers.

The Complainant further contends that the Respondent was well aware of the KÄTHE WOHLFAHRT trademarks when the disputed domain name was registered in April 2024 since the Complainant's trademarks had already been registered for several years before. A simple Internet search for KÄTHE WOHLFAHRT would have led the Respondent right to the websites of the Complainant that would have informed the Respondent about the Complainant's trade name and trademarks rights.

Accordingly, the Respondent knew or at least should have known about the existence of the Complainant's well-known and widely used rights at the time of the registration. The disputed domain name was in the view of the Complainant also used in bad faith.

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 several trademark for the purposes of the Policy. The entirety of the mark is reproduced within the disputed domain name. The addition of the element "-de" at the end of the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademarks. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 name. 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 name such as those enumerated in the Policy or otherwise. This is in particular the case since the Complainant did not grant any permission or consent to the Respondent to use its trademark. In other words, the Complainant had not authorised the Respondent to make use of its mark. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no evidence that the Respondent is commonly known by the disputed domain name or that the Respondent is using the disputed domain name in connection with a bona fide offering of related goods or services.

The latter could be discussed since the website seem to have offered products from the Complainant. However, the majority opinion of panelists follows in cases where a legitimate interest of resellers of original goods to use a trademark in the domain name is in question, the test of *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), after which such use might be legitimate if the use comprise the actual offering of goods, only the trademarked goods are sold on the site, and the site is accurately and prominently disclosing the registrant's relationship with the trademark holder.

The present case does not meet the criteria of the Oki Data test, since the website under the disputed domain name create the impression of being authorized by the Complainant or even the Complainant itself whereas any other relationship to the Complainant is not disclosed in a prominent way.

The Panel further notes that the composition of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

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.

Due to the trademarks of the Complainant being present at the time of the registration of the disputed domain name for a long time, the Respondent should have been well aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant had not authorised the Respondent to make use of its mark.

The Respondent's failure to come forward with any explanation for the registration of the disputed domain name in a response, noting the composition and the use of the disputed domain name, indicates that the Respondent targeted the Complainant.

Also the further circumstances of this case, inter alia the Respondent's website offering similar products without indicating the operator of the website indicate that the Respondent registered and used the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with 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 <kathewohlfahrt-de.com> be transferred to the Complainant.

/Dietrich Beier/

Dietrich Beier

Sole Panelist

Date: February 19, 2025