

## **ADMINISTRATIVE PANEL DECISION**

KAPPA S.R.L. v. avraham traub

Case No. D2025-2956

### **1. The Parties**

The Complainant is KAPPA S.R.L., Italy, represented by Studio Sindico e Associate, Italy.

The Respondent is avraham traub, Mexico.

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

The disputed domain name <kappamx.com> is registered with Wild West Domains, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2025. On July 25, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 30, 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 amended Complaint on August 4, 2025.

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 August 5, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2025. The Respondent sent email communications to the Center on August 11, 2025, August 21, 2025, August 26, 2025, and September 5, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on September 8, 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 an Italian company active in the field of clothing, footwear, and accessories, particularly sportswear and leisurewear, sold in Italy and internationally under various trademarks amongst which the KAPPA trademark.

The Complainant's official website is available at the domain name <kappa.com>. The Complainant is the owner, amongst several others, of the following trademark registrations (Annexes 3, 4 and 5 to the Complaint):

- European Union Trademark Registration No. 003137395 for the word mark KAPPA, filed on April 17, 2003, registered on December 2, 2004, successively renewed, covering products and services in classes 3, 9, 16, 18, 25 and 28; and

- International Trademark Registration No. 820762 for the word mark KAPPA, registered on October 13, 2003, successively renewed, covering products and services in classes 9, 16, 18, 25 and 28.

The disputed domain name was registered on May 26, 2010, and presently redirects Internet users to a registrar parked webpage. At the time of the filing of the Complaint, the disputed domain name redirected Internet users to the webpage of an online apparel store (Annexes 11 and 12 to the Complaint).

#### **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 its KAPPA trademark has been used extensively in Europe and all over the world, having become, at least in Europe, one of the most famous brands in the sector of casual wear.

According to the Complainant, the disputed domain name is confusingly similar to the KAPPA trademark given that it fully includes the KAPPA word mark coupled with the geographical acronym "mx" (referring to Mexico) that could be seen as descriptive.

As to the lack of rights or legitimate interests, the Complainant contends that it has never authorized any third party to register any domain names including the KAPPA trademark. Furthermore, the Complainant argues that the Respondent's use of the disputed domain name in connection with a competing website cannot confer any rights or legitimate interests, but rather constitutes a pretext for commercial gain. Such conduct, under the Complainant's view, carries a high risk of implied affiliation and misleadingly suggests sponsorship, endorsement, or approval by the Complainant, none of which exists.

Lastly, the Complainant sustains that, given the fame and distinctiveness of the KAPPA trademark all over the world, the registration of the disputed domain characterizes bad faith per se. In addition to that, the Respondent appears to be connected to a former licensee for the Complainant's products in Mexico (Annex 13 to the Complaint), what not only confirms the Respondent's actual knowledge of the Complainant's trademark but also reinforces the likelihood of confusion.

## B. Respondent

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

On August 11, 2025, the Respondent sent a first communication to the Center in Spanish<sup>1</sup>, which, in a free translation read "Hello, good morning I don't speak English please send me any messages in Spanish. From what little I could understand, you're talking about the Kappa MX domain I'd like to understand If any use of the word Kappa in any context is prohibited Since I have nothing to do with selling your clothing, Regards."

On August 21, 2025, the Respondent sent a second communication stating "Hello, how are you? I appreciate the information. We had the Kappa license several years ago, and with it, we used the domain kappamx.com. Unfortunately, we didn't realize that this domain was still in our possession and was automatically renewing. For this reason, we apologize. I have already canceled the domain's automatic renewal, so it is no longer in my possession. It has also been removed from the [www.attivo.mx](http://www.attivo.mx) website".

A third communication with the exact same content of the second communication was sent by the Respondent on August 26, 2025. On September 5, 2025, the Respondent sent an email communication in Spanish confirming that the disputed domain name was deleted<sup>2</sup>.

## 6. Discussion and Findings

### 6.1 Procedural matter – Respondent's consent

Firstly, the Panel has to address the Respondent's acceptance as to the voluntary transfer of the disputed domain name without findings of fact or conclusions as to the merits of the case under the UDRP.

A UDRP panel may at its discretion order the transfer of the domain name if the respondent has given its unambiguous consent to transfer without findings under the Policy, paragraph 4(a). [WIPO Overview 3.0](#), section 4.10. Some UDRP panels have declined to grant a remedy solely on the basis of respondent's consent where the complainant objects or because the panel finds a broader interest in reaching a substantive determination.

In the present case, considering all the circumstances of the present case, the Panel will proceed to a decision on the merits, and analyze the three requisite elements under paragraph 4(a) of the Policy.

### 6.2 Substantive matter

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain name:

- (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.

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<sup>1</sup> The original message read: "*Hola buen día yo no hablo inglés por favor me mandan cualquier comunicado en español. Por lo poco que logro entender están hablando del tema del dominio kappa MX yo quisiera entender Si cualquier uso de la palabra kappa en cualquier contexto está prohibido Ya que no tengo nada que ver con la venta de su ropa Saludos*"

<sup>2</sup> The original message read: "*buenos dias ya les habia comentado q el dominio fue eliminado hablando al al admin del la cuenta logre q me manden este correo, espero les sirva, saludos*"

### **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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms (here, a hyphen and "mx") 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 furthermore recognized not having interest in the disputed domain name and recognized the prior relationship with the Complainant.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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.

The Distribution and License Agreement (Annex 13 to the Complaint) that both Complainant and Respondent recognize to have been Parties to expressly provided in clause 4.3 that:

*“Nothing herein confers, or shall confer upon the Company, any right, title or interest in the Intellectual Property or in any of the Trademarks, domain names, communication claims or any other intellectual property during the term of this Agreement or any time thereafter [...]”*

In light of this provision, the registration of the disputed domain name was clearly outside the scope of its contractual rights. At the very least, the disputed domain name should have been transferred upon termination of the agreement.

Moreover, the Respondent’s subsequent use of the disputed domain name in connection with a competing website, followed by its current passive holding, does not prevent a finding of bad faith. In fact, such conduct is consistent with the doctrine of passive holding as outlined in section 3.3 of the [WIPO Overview 3.0](#), which recognizes that the non-use of a domain name in certain circumstances may itself constitute evidence of bad faith registration and use.

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 name <kappamx.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: September 11, 2025