

ADMINISTRATIVE PANEL DECISION

Berkadia Proprietary Holding LLC v. ajay kumar
Case No. D2025-4463

1. The Parties

The Complainant is Berkadia Proprietary Holding LLC, United States of America ("United States"), represented by Reed Smith LLP, United States.

The Respondent is ajay kumar, India.

2. The Domain Name and Registrar

The disputed domain name <berkadiaindia.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 29, 2025. On October 29, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 4, 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 amended Complaints on November 5, 2025, and November 7, 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 November 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 2, 2025.

The Center appointed Petra Pecar as the sole panelist in this matter on December 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 Berkadia Proprietary Holding LLC, a global leader in the commercial real estate industry with headquarters in the United States. The Complainant provides financial and real estate services worldwide under the BERKADIA marks, which have been in consistent use since 2009. The Complainant has nearly 3,000 employees globally, including around 1,000 based in India. As of March 31, 2025, the Complainant manages a portfolio of USD 425 billion in unpaid principal balance.

The Complainant owns worldwide registrations protecting the term BERKADIA, among others the International figurative mark BERKADIA registration No. 1745008 in Classes 9, 36 and 41, registered on February 16, 2023, designated, among other jurisdictions, in India.

The Complainant is the owner of several domain names, including <berkadia.com>, on which the Complainant operates its main corporate website.

The disputed domain name was registered on March 20, 2025, and at the time of the Complainant filing it resolved to a “coming soon webpage”.

The Respondent appears to be an individual located in India.

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 confusingly similar to the BERKADIA mark and has been used in a manner that takes unfair advantage of that mark. The disputed domain name has resolved to a website displaying “Launching soon” and “Berkadia India”, presenting itself as an entity of the same name, which the Complainant argues falsely implies affiliation and enables potential impersonation, fraudulent services, and phishing attempts.

The Complainant further asserts that the disputed domain name incorporates the BERKADIA mark in its entirety with only the addition of the term “India”, a location where the Complainant maintains significant operations and a registered BERKADIA mark. This addition is said to heighten the likelihood of consumer confusion by suggesting a legitimate connection to the Complainant.

The Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has no affiliation with the Complainant and has never been authorized to use the BERKADIA mark. The BERKADIA mark has been in use since 2009, predating the Respondent's registration of the disputed domain name.

The Complainant argues that the disputed domain name is confusingly similar to a well-known mark, creating a presumption of bad faith, and that the Respondent knew of the Complainant's rights when selecting it. Even a basic search would have revealed the Complainant's mark and established commercial presence. Through extensive operations, marketing, and sustained growth, the Complainant has built significant goodwill in its brand. The Respondent use of the disputed domain name to impersonate the Complainant,

mislead users, and conduct a phishing scheme, demonstrates bad faith use. The Respondent's reliance on a privacy service to conceal its identity further supports an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 by the Respondent in bad faith.

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 BERKADIA 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 the term "India" may bear on assessment of the second and third elements, the Panel finds the addition of such term 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. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take into consideration the gTLD ".com" when assessing confusing similarity of the disputed domain name.

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.

According to the Complainant, it appears that the Respondent is not affiliated or connected with the Complainant in any manner, nor has the Complainant granted the Respondent any license or authorization to use or register a domain name incorporating the Complainant’s BERKADIA mark. The Respondent has also failed to respond to the Complaint, thereby failing to provide any information or factors that could potentially establish prior rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name. Furthermore, there is no evidence indicating that the Respondent has engaged in any legitimate or bona fide use of the disputed domain name, either for commercial or noncommercial purposes, as the disputed domain name, at the time the Complaint was filed, resolved to a webpage displaying “Launching soon” and the heading “Berkadia India”.

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’s disputed domain name consists of a combination of the BERKADIA mark, the additional element “India” and the gTLD “.com”. The registration of the disputed domain name, which incorporates the Complainant’s BERKADIA mark and additional term “India”, a country where the Complainant maintains operations, indicates the Respondent’s awareness of the Complainant and its BERKADIA mark. Regarding bad faith at the time of registration, the Panel finds that the Respondent was aware of the Complainant’s rights in the BERKADIA mark when the disputed domain name was registered, as the domain currently resolves to a “Launching soon” page and refers to “Berkadia India”, where the Complainant also conducts business. These circumstances support a finding of bad-faith registration. The disputed domain name was designed to create a misleading association with the Complainant and its activities, with the Complainant’s BERKADIA mark predating the registration of the disputed domain name by approximately two years. Consequently, the Panel concludes that the disputed domain name was registered in bad faith.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having

reviewed the available record, the Panel notes that social media presence and business activity of the Complainant and its mark in India, the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 name <berkadiaindia.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: December 22, 2025