

ADMINISTRATIVE PANEL DECISION

Kinguin Digital Limited v. KeurigConcepts
Case No. D2025-4861

1. The Parties

The Complainant is Kinguin Digital Limited, China, represented by Olesiński i Wspólnicy spółka komandytowa, Poland.

The Respondent is KeurigConcepts, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <kinguin.com> is registered with NameWeb BVBA (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2025. On November 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 24, 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 (Ewoud Hoitsma, KeurigConcepts) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 26, 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 November 28, 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 December 5, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2025.

The Center appointed Mireille Buydens as the sole panelist in this matter on January 6, 2026. 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.

On January 19, 2026, the Panel issued Procedural Order no. 1, requesting the Complainant to provide evidence of use of the trademark KINGUIN before the registration date of the disputed domain name. The Complainant was invited to provide its submission by January 24, 2026, and the Respondent was invited to comment on its submission by January 29, 2026. The Complainant filed its submission on January 23, 2026. The Respondent did not submit any response.

4. Factual Background

The Complainant exploits an online platform mainly offering third-party computer games and other digital products. According to the Complaint, the Complainant started doing business as "Kinguin" in 2009. Since 2014, the Complainant has also sponsored esports teams. In November 2023, Complainant reached over 17,000,000 registered accounts.

The Complainant is the owner of various trademark registrations covering the sign KINGUIN (hereafter "the Trademark" or "the KINGUIN Trademark"), including *inter alia*:

- The Australian Trademark Registration no. 1537248, filed on January 24, 2013, and registered on 15 August 15, 2013;
- The European Union Trademark Registration no. 015330871 for KINGUIN (word mark), registered on 28 December 28, 2016, and applied for on April 13, 2016;
- The European Union Trademark Registration no. 016135311 for KINGUIN (word and device mark), registered on July 26, 2017, and applied for on December 6, 2016;
- The United States of America ("US") Trademark Registration no. 5128026 for KINGUIN (word mark), registered on January 24, 2017;

The Complainant uses the domain name <kinguin.net> for its official website.

The disputed domain name was registered on January 4, 2010, *id est* before the registration of the Complainant's Trademark. The disputed domain name was first used to display some pictures and information. In 2017, the Respondent signed up for the Complainant's affiliate program, under which individuals who share referral links directing users to the Complainant's official website receive a commission on purchases made through those links. The Respondent thus became a Complainant's "affiliate" in 2017 and started using the disputed domain name to automatically redirect to the Complainant's official website. At the time of this decision, the disputed domain name still automatically redirects to the Complainant's official website.

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.

First, the Complainant asserts that the disputed domain name is identical to the KINGUIN Trademark as it incorporates the Trademark in its entirety (with no addition nor alteration). The generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and does not prevent the disputed domain name from being identical to the KINGUIN Trademark.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has never been authorized by the Complainant to use and register its Trademark. The Respondent is not commonly known by the disputed domain name as a search for the term "Kinguin" in major search engines primarily returns results related to the Complainant's business activities. The Respondent has no trademark rights in the KINGUIN Trademark. The Respondent's use of the disputed domain name does not constitute fair use, either, as the Respondent uses the disputed domain name to directly redirect users to the Complainant's official website. The redirection occurs almost immediately, and users receive no notice that they have been redirected, which excludes any fair use according to the Complainant. According to the Complainant, this would be in breach of the terms and conditions of the contract concluded between the Respondent and the Complainant.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. Notably, the Complainant contends that the Respondent registered the disputed domain name in 2010, one year after the KINGUIN brand entered the market. Until August 2015, the website under the disputed domain name only displayed a few images and a banner redirecting to a page about the free Internet manifesto. In 2017, the Respondent became a member of the Complainant's "affiliate" program and the Respondent started using the disputed domain name to redirect users to the Complainant's official website. By doing so, the Respondent deliberately circumvented the rules and the fundamental purpose of the affiliate program, which is designed to promote the KINGUIN brand and attract new users, with participants expected to make genuine promotional efforts. The Respondent, however, did not engage in any promotional efforts for the KINGUIN brand. Instead, the Respondent exploited the fact that the disputed domain name is identical to the KINGUIN Trademark, and joined the affiliate program with the clear intention of financial gain, which, according to the Complainant, constitutes use in bad faith of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Dutch. 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.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent corresponded with the Complainant in English, that the content posted on the website to which the disputed domain name directs was in English, and that, when the Respondent joined the Complainant's affiliate program the terms and conditions were drafted in English. Besides, the Complainant asserts that conducting the proceedings in Dutch would impose significant additional burdens on the Complainant, who does not speak Dutch, while conducting the proceedings in English, which is used by both Parties, would be reasonable and fair.

The 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).

In the case at hand, the registration agreement for the disputed domain name is in Dutch. However, it appears from the evidence filed by the Complainant that the content posted on the website to which the disputed domain name direct was in English, and that, when the Respondent joined the Complainant's affiliate program the terms and conditions were drafted in English. As a result, the Panel considers that the Respondent can read and understand English. On the other hand, the Complainant is located in China and does not understand Dutch. Therefore, 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. Discussion and Findings

Dealing with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements to succeed in its Complaint:

- (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.

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 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 KINGUIN Trademark is reproduced within the disputed domain name, with no addition nor alteration. Accordingly, the disputed domain name is identical to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Further, the gTLD ".com" is a standard registration requirement and does not prevent the disputed domain name from being identical to the KINGUIN Trademark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Given the Panel's findings below regarding the third element of paragraph 4(a) of the Policy, it is unnecessary to consider the second element.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy sets out two conjunctive requirements. The Complainant must show both that the disputed domain name has been registered in bad faith, and also that the disputed domain name is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of, or otherwise abuses, a complainant's mark. See WIPO Overview, section 3.1.

As regards registration, the Panel will assess bad faith as at the time when the Respondent acquired the disputed domain name. See [WIPO Overview 3.0](#), section 3.9. Where a domain name has been registered before a complainant has acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith. WIPO Overview, Section 1.1.3. and 3.8.1.

In the present case, the Respondent acquired the disputed domain name in January 2010, which is before the Complainant's first application for the KINGUIN Trademark (the first application for the KINGUIN Trademark mentioned by the Complainant is an Australian trademark application no. 1537248, filed on January 24, 2013, and registered on August 15, 2013). The Panel issued Procedural Order no. 1 asking the Complainant to file evidence of use of the KINGUIN Trademark before January 4, 2010 (the registration date of the disputed domain name). Although the Complainant filed evidence proving that its company was founded in 2009, the evidence of use before the registration date of the disputed domain name is not convincing for the following reasons:

- The Complainant invokes the fact that it registered its domain name <kinguin.net> on December 17, 2009, and files a screenshot proving the same;
- For proving the use of the KINGUIN Trademark before January 4, 2010, it provides two screenshots of a discussion forum in Serbian: the first screenshot mentions "29 August 2009", the second one (presented as the follow-up as the first one, even if this does not appear from the screenshots themselves) refers to <kinguin.net>. This is intended as a proof of use of KINGUIN by the Complainant before January 4, 2010. However, the Panel cannot understand how a discussion forum of August 2009 can refer to a website whose domain name was registered only on December 17, 2009. The dates are not compatible.
- The Complainant further provides two screenshots from a Spanish website. The first screenshot bears the date of July 27, 2009, and the second one (presented as the follow-up of the first one, even if this does not appear from the screenshots themselves) refer to the Complainant's website <kinguin.es>. However, it appears that the domain name <kinguin.es> was registered in July 2012. As a result, the Panel does not understand how the Spanish website can refer to <kinguin.es> in 2009 while the domain name for this website didn't exist before 2012.

It results from the foregoing that the Complainant does not prove, with sufficient certainty, that it used the KINGUIN Trademark before the registration date of the disputed domain name in such a way that the Respondent could be aware of and could therefore have registered the disputed domain name in bad faith.

Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision (section 4.8 of the [WIPO Overview 3.0](#)). Accordingly, this Panel used the historical resources of Internet Archive at "www.archive.org" in order to obtain an indication of when and how the Complainant's domain name <kinguin.net> may have been used in the relevant past. The Panel found that it results from "web.archive.org" that a beta version of the Complainant's official website at <kinguin.net> was only available at the end of 2012. As the Complainant presents itself as a web-platform allowing (games') sellers to offer their products and services online through the online platform, one can expect that the Trademark was used online as from the beginning – which appears to be 2012. The fact that the KINGUIN Trademark is unlikely to have been used in commerce before 2011 is confirmed by the Complainant's US Trademark Registration no. 5128026 mentioning "FIRST USE 12-17-2009; IN COMMERCE 1-2-2011", which indicates that the KINGUIN Trademark started to be used *in commerce* (and therefore used in such a way that the Respondent could have been aware of it) *after* the registration of the disputed domain name in January 2010. This is also confirmed by the Complainant's current website, which explicitly states that the KINGUIN website was launched in January 2013.

As a result, the Panel concludes that the disputed domain name has been registered before the registration of the Trademark, and even before the Complainant started to use the KINGUIN Trademark online, or at least in a way the Respondent could have been aware of. Despite the Procedural Order, the Complainant did not file conclusive evidence showing a use of the KINGUIN Trademark online (or in the course of trade, in a way that could have been known by the Respondent) before the registration date of the disputed domain name. As mentioned above, where a disputed domain name has been registered before a complainant has

acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith. WIPO Overview, Section 1.1.3. and 3.8.1. The Panel finds that the circumstances in this case raise questions that could not be answered by the Complainant with evidence. In the case at hand, the evidence as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's KINGUIN Trademark.

The Panel finds therefore that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its Trademark because the Complainant had no Trademark rights at the time that the Respondent registered the disputed domain name and because the Complainant did not prove that the KINGUIN Trademark was used before the registration date in a way that could have been perceived by the Respondent. The Complainant did not prove exceptional circumstances demonstrating the registration in bad faith. [WIPO Overview 3.0](#), section 3.8.1.

If the disputed domain name has not been registered in bad faith, it is unnecessary to analyze whether, at some point in time thereafter, the Respondent has used it in bad faith.

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: January 30, 2026