

## **ADMINISTRATIVE PANEL DECISION**

Kinsta Inc. v. Ivan Spasenovic, Ivan-Spasenovic  
Case No. DCO2025-0010

### **1. The Parties**

Complainant is Kinsta Inc., United States of America ("US"), internally represented.

Respondent is Ivan Spasenovic, Ivan-Spasenovic, Serbia.

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

The disputed domain name <kinsta.co> is registered with Xiamen ChinaSource Internet Service Co., Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 30, 2025. On January 30, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 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 Complainant on February 5, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on February 7, 2025.

On February 5, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On February 7, 2025, Complainant confirmed its request that English be the language of the proceeding. Respondent did not submit any comment on Complainant's submission.

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 Respondent in Chinese and English of the Complaint, and the proceedings commenced on February 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 9, 2025.

The Center appointed Yijun Tian as the sole panelist in this matter on March 18, 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**

##### **A. Complainant**

Complainant, Kinsta Inc, is a company incorporated in the US. Complainant operates in the web hosting space and promotes its business at "www.kinsta.com".

Complainant has rights in KINSTA marks. Complainant is the owner of numerous KINSTA marks worldwide, including a US trademark registration for KINSTA registered on May 17, 2016 (the US trademark registration number 4959307); and a Chinese trademark registration for KINSTA registered on February 7, 2024 (the Chinese trademark registration number 67977253).

##### **B. Respondent**

Respondent is Ivan Spasenovic, Ivan-Spasenovic, Serbia. The disputed domain name <kinsta.co> was registered on December 23, 2024, long after the KINSTA marks were registered (since 2016). The disputed domain name resolved to a GoDaddy parking page, offering the disputed domain name for sale at the price of USD 1,988. Currently, the disputed domain name is listed for sale at the price of USD 1,788. <sup>1</sup>

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the disputed domain name is confusingly similar to Complainant's KINSTA trademark. The disputed domain name reproduces in full Complainant's KINSTA mark, with the sole addition of the country code Top-Level Domain ("ccTLD") identifier ".co".

Complainant contends that Respondent does not have any rights or legitimate interests in the disputed domain name.

Complainant contends that Respondent has registered and used the disputed domain name in bad faith.

Complainant requests that the disputed domain name be transferred to Complainant.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

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<sup>1</sup>[https://www.godaddy.com/forsale/kinsta.co?utm\\_source=TDFS\\_BINNS&utm\\_medium=parkedpages&utm\\_campaign=x\\_corp\\_tdfs-binns\\_base&traffic\\_type=TDFS\\_BINNS&traffic\\_id=binns&](https://www.godaddy.com/forsale/kinsta.co?utm_source=TDFS_BINNS&utm_medium=parkedpages&utm_campaign=x_corp_tdfs-binns_base&traffic_type=TDFS_BINNS&traffic_id=binns&)

## 6. Discussion and Findings

### 6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) Complainant is a US-based company with registered trademarks in the US and with the World Intellectual Property Organization (WIPO), both of which conduct legal proceedings in English.
- (b) The disputed domain name is currently listed for sale on GoDaddy in English, indicating Respondent's capability and willingness to engage in English-language transactions.

Respondent did not make any submissions with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") further states:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement." ([WIPO Overview 3.0](#), section 4.5.1; see also *L'Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

The Panel has taken into consideration the facts that Complainant is a company from the US, and Complainant will be spared the burden of working in Chinese as the language of the proceeding. The Panel has also taken into consideration the fact that the disputed domain name includes Latin characters ("kinsta"), and the sole addition of the ccTLD identifier comprising of the Latin characters ".co", assigned to Colombia. (*Compagnie Gervais Danone v. Xiaole Zhang*, WIPO Case No. [D2008-1047](#)).

On the record, Respondent appears to be a Serbian resident and is thus presumably not a native English speaker. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) the disputed domain name includes Latin characters (“kinsta”), rather than Chinese script; (b) the disputed domain name resolves to an English website, which contains English terms, such as “Buy Now”, and “Need help? Give us a call”; (c) the Center has notified Respondent of the proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant’s request that English be the language of the proceeding; and (d) the Center informed the Parties, in Chinese and English, that it would accept a Response in either Chinese or English. The Panel would have accepted a Response in Chinese but none was filed.

Accordingly, the Panel finds the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

## **6.2. Substantial Issues**

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

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

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

### **A. Identical or Confusingly Similar**

The Panel finds that Complainant has rights in the KINSTA marks acquired through registration. The KINSTA marks have been registered internationally, such as in the US (since 2016) and in China (since 2024).

The disputed domain name comprises the KINSTA mark in its entirety. The disputed domain name only differs from Complainant’s trademarks by the addition of the ccTLD “.co”. In relation to the ccTLD, [WIPO Overview 3.0](#), section 1.11 states:

“The applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

Thus, the Panel finds that disregarding the ccTLD “.co”, the disputed domain name is identical to the KINSTA marks in which Complainant has rights.

The Panel therefore holds that the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to Respondent of the dispute, the use by Respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) Respondent has been commonly known by the disputed domain name, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant's trademarks.

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a prima facie case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to respondent to rebut complainant's contentions. If respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1 and cases cited therein).

The KINSTA marks have been registered in the US since May 2016 and in China since February 2024 – both predating Respondent's registration of the disputed domain name in December 2024. Moreover, nothing in the case record indicates that Respondent is an authorized dealer of KINSTA branded products or services. Complainant has therefore established a prima facie case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:

- (a) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of the term "kinsta" in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the KINSTA marks or to apply for or use any domain name incorporating the KINSTA marks.
- (b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2024, long after the KINSTA marks were registered (since 2016). The disputed domain name is identical to the KINSTA marks.
- (c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name resolved to a website in English, offering the disputed domain name for sale at the price of USD 1,988.<sup>2</sup>

The Panel notes that Respondent has not produced any evidence to rebut Complainant's case which demonstrates that Respondent has no rights or legitimate interests in the disputed domain name.

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<sup>2</sup>The current price for the disputed domain name is USD 1,788, at

"[https://www.godaddy.com/forsale/kinsta.co?utm\\_source=TDFS\\_BINNS&utm\\_medium=parkedpages&utm\\_campaign=x\\_corp\\_tdfs-binns\\_base&traffic\\_type=TDFS\\_BINNS&traffic\\_id=binns&](https://www.godaddy.com/forsale/kinsta.co?utm_source=TDFS_BINNS&utm_medium=parkedpages&utm_campaign=x_corp_tdfs-binns_base&traffic_type=TDFS_BINNS&traffic_id=binns&)"

Accordingly, Complainant has established that Respondent has no rights or legitimate interests in the disputed domain name. The Panel therefore holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out four circumstances, which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

(i) circumstances indicating that Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on the website or location.

The Panel concludes that the circumstances referred to in paragraph 4(b)(i) of the Policy are applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith.

#### **(a) Registration in Bad Faith**

The Panel finds that Complainant has widespread reputation for its KINSTA trademarks. As mentioned above, KINSTA marks are registered internationally, including in the US (since 2016) and in China (since February 2024). The Panel finds that the KINSTA mark is not one that a trader could legitimately adopt other than for the purpose of creating an impression of an association with Complainant (*The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*). The Panel therefore finds that Respondent knew or should have known of the KINSTA marks at the time of the registration of the disputed domain name (in December 2024).

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain name was registered in bad faith.

#### **(b) Use in Bad Faith**

According to Complainant's evidence, the disputed domain name resolved to a website, which offered the disputed domain name for sale at the price of USD 1,988. Given the reputation of the KINSTA marks and the circumstances of this case, the Panel finds that Respondent has most likely registered the identical disputed domain name for the purpose of selling the disputed domain name registration to Complainant to a

competitor of Complainant, for valuable consideration in excess of Respondent's out-of-pocket costs directly related to the disputed domain name.

The Panel therefore concludes that the disputed domain name was registered and is being used by Respondent in bad faith. Such use of the disputed domain name is also disruptive in relation to the interests of Complainant.

In summary, Respondent, by choosing to register and use the disputed domain name, which is identical to the KINSTA marks, intended to ride on the goodwill of this trademark in an attempt to exploit, for commercial gain. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain name and the conduct of Respondent as far as the website to which the disputed domain name resolves is indicative of registration and use of the disputed domain name in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

## **7. Decision**

For all 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 <kinsta.co> be transferred to Complainant.

*/Yijun Tian/*

**Yijun Tian**

Sole Panelist

Dated: April 3, 2025