

ADMINISTRATIVE PANEL DECISION

Franz Kaldewei GmbH & Co. KG v. Проценко Николай
Владимирович, Stroymaster
Case No. DUA2026-0001

1. The Parties

The Complainant is Franz Kaldewei GmbH & Co. KG, Germany, represented by Andrejewski Honke Patent-Und Rechtsanwälte Partnerschaft Mbb, Germany.

The Respondent is Protsenko Mykola Volodymyrovych (Проценко Николай Владимирович), Stroymaster, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <kaldewei.kiev.ua> is registered with NIC.UA LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 21, 2026. On January 21, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2026, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On January 23, 2026, the Center informed the parties in Ukrainian and English, that the language of the registration agreement for the disputed domain name is Ukrainian. On January 26, 2026, the Complainant requested English to be the language of the proceedings. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the ".UA Policy"), the Rules for .UA Domain Name Dispute Resolution Policy (the ".UA Rules"), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the "WIPO Supplemental Rules").

In accordance with the .UA Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Ukrainian of the Complaint, and the proceedings commenced on February 3, 2026. In accordance with the .UA Rules, paragraph 5(a), the due date for Response was February 23, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 24, 2026.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on March 2, 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 .UA Rules, paragraph 7.

4. Factual Background

The Complainant is an internationally recognized business specializing in the production of high-quality bathroom solutions. The Complainant is one of the global leaders in the field of enamelled bathroom products and maintains a strong international presence, operating in more than 80 countries through twelve subsidiaries.

The Complainant owns trademark registrations for KALDEWEI, including the following:

- European Union Trademark Registration No. 000010009 for KALDEWEI, registered on December 19, 1997, for goods in International Classes 6, 11, 17 and 20;
- European Union Trademark Registration No. 11475225 for KALDEWEI, registered on June 6, 2013, for goods in International Classes 9, 11 and 17; and
- German Trademark Registration No. 302012008660 for KALDEWEI, registered on November 8, 2012, for goods in International Classes 9, 11 and 17.

The disputed domain name was registered by the Respondent on February 1, 2013 and at the time of this Decision resolves to a commercial website purportedly offering for sale the Complainant's products under the KALDEWEI trademark. The website prominently displayed the Complainant's KALDEWEI trademark at the top of its homepage.

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.

(1) Identical or Confusingly Similar

The Complainant contends that it owns rights in the KALDEWEI trademark.

The Complainant further contends that the disputed domain name entirely incorporates the KALDEWEI trademark, which is clearly recognizable within the disputed domain name.

(2) No Rights or Legitimate Interests

The Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant claims that it has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated with the Complainant in any form. There is no evidence demonstrating that the Respondent might be commonly known by the disputed domain name.

The Complainant contends that the website associated with the disputed domain name falsely presents itself as official online retailer of the Complainant's products under the KALDEWEI trademark or, at the very least, as official and authorized licensee of the Complainant. This impression is created through the use of the Complainant's KALDEWEI trademark in the disputed domain name and the use of the Complainant's trademark on the website.

(3) Registered or Used in Bad Faith

The Complainant contends that the disputed domain name has been registered and is being used in bad faith.

According to the Complainant, the Respondent is using the disputed domain name to intentionally attract Internet users by creating a likelihood of confusion with the Complainant's trademarks. As illustrated in the evidence provided, the website under the disputed domain name presents itself as a legitimate Kaldewei online shop, although no commercial relationship has ever existed between the Respondent and the Complainant.

The Complainant contends that the Respondent is misleading consumers into believing that the disputed domain name is operated by, or affiliated with, the Complainant for the purpose of selling counterfeit products, failing to deliver goods, or distributing legitimately branded goods obtained through unauthorized channels. Even if genuine products were offered, the Complainant asserts that the Respondent's use of the disputed domain name falsely suggests authorization or endorsement with the Complainant, which is not the case.

The Complainant also raises concerns that the website may be used to deceive users into downloading potentially harmful files falsely presented as Kaldewei catalogues, and that the Respondent may be collecting personal data through an online contact form without authorization. Based on these circumstances, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceedings

Paragraph 11(a) of the .UA Rules provides that "unless otherwise agreed by the Parties, the language of the administrative proceeding shall be the language of the Registration Agreement (which shall be in English, Russian or Ukrainian), subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

The language of the Registration Agreement for the disputed domain name is Ukrainian. The Panel is proficient in both Ukrainian and English.

It is established practice to take paragraphs 10(b) and (c) of the .UA Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the Parties and undue delay to the proceeding. (See, e.g., *Chewy Inc v. Rostislav Karyi / Ростислав Карый*, WIPO Case No. [DUA2020-0007](#); *Crocs, Inc. v. Матвеева Анжела Геннадьевна / Matveeva Angela*, WIPO Case No. [DUA2020-0015](#)).

The Complainant filed the Complaint in English and requested English to be the language of this proceeding, referring not only to the potential unfairness or unwarranted delay that would result from requiring a translation, but also noting that English is the international language of business. The Complainant further argued that the Respondent itself claims to represent goods of a foreign manufacturer, which also supports the use of English in this proceeding.

The Center has provided both Parties with an opportunity to comment on the language of the proceedings by sending both Parties a Language of Proceedings notification, as well as all other communications in both Ukrainian and English. The Complainant has provided submissions regarding the requested language of proceedings, while the Respondent did not raise any objection or reply thereto.

As it was earlier found by other panels, while applying the provision on the language of the proceeding the Panel considers that it should be also ensured that the Parties are treated equally, that each Party is given a fair opportunity to present its case and that the proceeding takes place with due expedition (See, e.g., *Facebook Inc. v. Private Registration / Denis Khakimov*, WIPO Case No. [DUA2019-0002](#)).

Requiring the Complainant to translate the Complaint and all documents into Ukrainian would cause delay in contravention to paragraph 10(c) of the .UA Rules, which requires that “[t]he Panel shall ensure that the administrative proceeding takes place with due expedition”. See *Michael Kors (Switzerland) International GmbH. v. Minakova Maria*, WIPO Case No. [DUA2020-0002](#).

Furthermore, the Panel establishes that English is not the native language of the Complainant. In previous similar cases, panels after considering the totality of the circumstances found that it would be fair to the parties not having English as their native language and one of which is not familiar with the respondent’s native language to designate English as the language of the proceeding (see *OPPO Pte. Ltd. v. Alexander Leonidovich Shirkov*, WIPO Case No. [DUA2019-0001](#)).

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.

Considering that both Parties have been given fair opportunities to present their cases and the Respondent has been given an opportunity to object to the proceedings being conducted in English but has not responded, the Panel finds that in the circumstances of this case, paragraph 11(a) of the .UA Rules is best served by allowing the proceedings to be conducted in English in accordance with the Complainant’s request as the Complainant could suffer significant disadvantage if the proceedings are conducted in Ukrainian.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the .UA Rules that the language of the proceeding shall be English.

6.2. Further Procedural Considerations – Location of the Respondent

Under paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that the proceeding should continue.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

6.3. Substantive Discussion

Paragraph 15(a) of the .UA Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[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."

Paragraph 4(a) of the .UA Policy directs that the Complainant must prove each of the following:

- that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- that the disputed domain name has been registered or is being used in bad faith.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the .UA Policy, the Panel bases its decision on the statements and documents submitted in accordance with the Policy and the Rules.

Under paragraph 5(f) and paragraph 14(b) of the .UA Rules, if a respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint, and where a party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

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 Select UDRP Questions (["WIPO Overview 3.1"](#)), section 1.7.¹

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

It is also well accepted that the addition of the second-level domain under the country code Top-Level Domain ("ccTLD"), in this case ".kiev.ua", is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.1](#), section 1.11.1.

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

¹ Given the similarities between the .UA Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel will refer when relevant to previous UDRP decisions and the [WIPO Overview 3.1](#).

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 these administrative 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 3.1](#), 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.

The Panel notes that neither license nor authorization appears to have been granted to the Respondent by the Complainant to make any use of the Complainant’s KALDEWEI trademark, or to apply for registration of the disputed domain name.

The Respondent’s choice of the disputed domain name, which incorporates the Complainant’s KALDEWEI trademark, and its use of the trademark in the website’s design and product descriptions without disclosing its lack of relationship with the Complainant, demonstrates clear targeting of the Complainant, its trademark, and its business. Consequently, the Respondent’s conduct cannot be regarded as a legitimate noncommercial or fair use of the disputed domain name.

The Complainant demonstrated that the website under the disputed domain name displays the Complainant’s KALDEWEI trademark, which shows that the Respondent has attempted to pass off as the Complainant, since the display of the Complainant’s KALDEWEI trademark and the overall website content mislead Internet users as to the affiliation, source or sponsorship of the services rendered by the Respondent, clearly seeking a commercial gain (see sections 2.5.1, 2.5.2., and 2.5.3 of the [WIPO Overview 3.1](#)).

The Respondent’s behavior shows a clear intent to obtain unfair commercial gain, with a view to misleadingly divert consumers or to tarnish the trademarks owned by the Complainant. The Panel finds that:

- the Respondent is not an authorized distributor or reseller of the KALDEWEI products; and
- the website to which the disputed domain name resolves does not meet the requirements set out by numerous panel decisions for a bona fide offering of goods.

A reseller or distributor can be making a bona fide offering of goods or services and thus have a legitimate interest in the domain name at issue only if certain requirements are met, which is not the case here because the website at the disputed domain name does not prominently and accurately display a disclaimer regarding the relationship between the Respondent and the Complainant.

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.

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

C. Registered or Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the .UA Policy, paragraph 4(b) of the .UA 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.

Paragraph 4(b) of the .UA Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.1](#), section 3.2.1.

The Panel notes that the Complainant has submitted evidence of its rights in the KALDEWEI trademark through multiple registrations. The Panel further notes that the Complainant is a distinguished manufacturer specializing in premium bathtubs, showers, and washbasins, and that the earliest registration and use of the KALDEWEI trademarks precede the creation of the disputed domain name, which resolves to a commercial website purportedly offering products of the Complainant and prominently displaying the Complainant's KALDEWEI trademark.

Under these circumstances, and considering both the composition of the disputed domain name and the content of the Respondent's website, the Panel finds that the Respondent targeted the Complainant and its well-known trademark with bad faith in the registration and use of the disputed domain name.

The Panel finds that the Respondent's use of the disputed domain name indicates a deliberate intention to attract Internet users to the Respondent's website, for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, or affiliation of the website, which constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Furthermore, panels have held that the use of a domain name for illegitimate or unlawful activities, such as claimed passing off, constitutes bad faith. Upon review of the record, the Panel finds that the Respondent's registration and use of the disputed domain name constitute bad faith under the Policy. The prominent display of the Complainant's trademark on the Respondent's website, and the absence of a disclosure on the lack of relationship with the Complainant, and all other relevant circumstances, indicate an effort to impersonate the Complainant or one of its subsidiaries or authorized distributors. Such actions represent an illegitimate conduct that constitutes bad faith under the Policy. [WIPO Overview 3.1](#), section 3.4.

Therefore, the Panel concludes 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 .UA Policy and 15 of the .UA Rules, the Panel orders that the disputed domain name <kaldewei.kiev.ua> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: March 19, 2026