

ADMINISTRATIVE PANEL DECISION

Inter IKEA Systems B.V. v. Zaal Tsereteli
Case No. DGE2022-0001

1. The Parties

The Complainant is Inter IKEA Systems B.V., Netherlands, represented by Convey Srl, Italy.

The Respondent is Zaal Tsereteli, Georgia.

2. The Domain Name and Registry

The disputed domain name <ikea.ge> is registered with Caucasus Online LLC (the .GE Registry).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2022. On January 25, 2022, the Center transmitted by email to the .GE Registry a request for registry verification in connection with the disputed domain name. On January 26, 2022, the .GE Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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

In accordance with the .GE Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 28, 2022. In accordance with the .GE Rules, paragraph 5, the due date for filing a Response was February 17, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on February 21, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on February 27, 2022. 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 .GE Rules, paragraph 7.

4. Factual Background

The Complainant is one of the most well-known home furnishing brands in the world with more than 400 stores, roughly 220,000 employees in more than 60 countries, and almost a billion visitors per year.

The Complainant holds trademark registrations in more than 80 countries around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration	International Classes
IKEA	9669	Georgia	June 9, 1998	11, 20, 24, 27
IKEA 	32906	Georgia	July 17, 2020	16, 20, 35, 43
IKEA 	1118706	United States	May 22, 1979	11, 20, 21, 24, 27
IKEA	000109652	European Union	October 1, 1998	2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 36, 39, 41, 42
IKEA 	000109637	European Union	October 8, 1998	2, 8, 11, 16, 18, 20, 21, 24, 25, 27, 28, 29, 30, 31, 35, 36, 39, 41, 42
IKEA 	926155	International Registration	April 24, 2007	16, 20, 35,
IKEA	0001300174	Italy	June 3, 2010	21
IKEA	0001257211	Italy	March 12, 2010	20

The Complainant owns several domain names such as <ikea.com>, launched in 1997, as well as <ikea.net>, <ikea.ru>, <ikea.us>, <ikea.cn>, <ikea.de>, <ikea.it>, and <ikea.co.uk>.

The disputed domain name was registered on May 16, 2006, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant argued the following:

That the Complainant was founded in Älmhult, Sweden, in 1943 by Ingvar Kamrad. That IKEA is named after the initials of founder Ingvar Kamrad, Elmtaryd, the farm on which he grew up, and Agunnaryd, the nearby village. That, therefore, this acronym has no meaning and is completely original and creative.

That the international expansion of the Complainant began in Norway in 1963 and Denmark in 1969. That, in 1973, the first IKEA store outside Scandinavia was established in Switzerland, followed by Germany. That, in the '80s, the Complainant expanded noticeably into new markets such as the United States of America (United States), Italy, France, and the United Kingdom.

That besides the production of furniture, the Complainant supports American Forests and is involved in several international charitable causes, particularly with UNICEF. That the philanthropic arm of the Complainant is the IKEA Foundation.

That the use of the mark IKEA started more than 70 years ago and has been renowned for its business services and brand recognition. That according to Best Global Brands of Interbrand, last year the brand IKEA is ranked in the 27th position.

I. Identical or Confusingly Similar

That the disputed domain name reproduces the Complainant's trademark IKEA in its entirety, thus rendering the disputed domain name identical to said trademark.

That the country code Top-Level Domain ("ccTLD") ".ge" is merely instrumental.

II. Rights or Legitimate Interests

That the mere registration of a domain name does not establish rights to or legitimate interests in a disputed domain name.

That the Respondent is not an authorized dealer, nor has ever been authorized by the Complainant to use the registered trademark IKEA in the disputed domain name.

That there is no evidence that the Respondent might be commonly known by the disputed domain name.

That the registered trademark IKEA is not a generic, descriptive, or dictionary term, but an inherently distinctive trademark, which solely refers to the Complainant since it is an acronym coined by the said Complainant in 1943.

That there is no evidence that shows that the Respondent has prior rights regarding the disputed domain name.

That the Respondent registered the disputed domain name years after the trademark IKEA became widely known.

That there is no evidence that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, or has engaged in a legitimate noncommercial use of the disputed domain name, before any notice of the dispute.

That, as of January 21, 2022, when the Complainant filed the Complaint, the disputed domain name was inactive.

That the Respondent has registered and used the disputed domain name that comprises the registered trademark IKEA, which is a well-known trademark internationally, including Georgia, where the Respondent is located.

III. Registered or Used in Bad Faith

That the registered trademark IKEA has been in use extensively since 1943. That it enjoys worldwide reputation and has become a well-known trademark.

That since IKEA is a well-known trademark, it is inconceivable that the Respondent was unaware of the existence of the Complainant's trademark registration when he registered the disputed domain name.

That the Respondent did not comply with the cease-and-desist letter sent by the Complainant.

That the Respondent has registered the disputed domain name having in mind the value of the Complainant's trademark, to profit from said trademark by attracting, for commercial gain, Internet users to the website to which the disputed domain name resolves by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the .GE Policy, the Complainant must prove that each of the three following elements is satisfied:

- (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 or is being used in bad faith.

Given the Respondent's failure to submit a Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations according to paragraphs 5(f), 14(a), and 15(a) of the Rules, and shall draw such inferences it considers appropriate under paragraph 14(b) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc.*, *Alternative Identity, Inc.*, and *Kentech*, WIPO Case No. D2006-0292, and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. D2002-0487).

This Panel points out the similarities between the .GE Policy and the Uniform Dispute Resolution Policy ("UDRP") since it is based upon and is a variant of the UDRP. Therefore, to benefit from interpretation criteria applicable to the existing circumstances, this Panel will rely on previous decisions issued within the framework of the UDRP and the jurisprudence reflected in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

A. Identical or Confusingly Similar

The Complainant has proven to be the owner of trademark registrations for IKEA throughout the world, including Georgia, where the Respondent has declared to reside.

The disputed domain name is identical to the Complainant's trademarks IKEA, as it includes it entirely (see section 1.7 of WIPO Overview 3.0).

The addition of the ccTLD ".ge" to the disputed domain name is immaterial for purposes of assessing confusing similarity, since it is a technical requirement of the Domain Name System ("DNS") (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. D2020-0268, and *Alain Afflelou Franchiseur v. Nikoloz Javakhia* WIPO Case No. DGE2021-0003).

The first element of the .GE Policy has been met.

B. Rights or Legitimate Interests

In accordance with paragraph 4(c) of the .GE Policy, the following examples are circumstances in which the Respondent may have rights to, or legitimate interests in, the disputed domain name:

- (i) before any notice to the Respondent of the dispute, the use 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) the Respondent (as individual, business, or other organization) has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the 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 the trademark or service mark at issue.

The Complainant has submitted enough evidence to prove that it is the owner of registrations for the IKEA trademark in several countries, including Georgia, where the Respondent appears to reside.

The Panel agrees with the determination reached in *Inter Ikea Systems B.V. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. D2017-2211, in that the IKEA trademark is well-known.

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any authorization, or other rights to the Respondent to use its trademark IKEA, and that the Respondent has not been commonly known by the disputed domain name (see cases *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. D2010-1431; and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. D2004-0272). The Respondent did not contest these allegations.

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. D2016-1747; and *Associated Newspapers Limited v. Manjeet Singh*, WIPO Case No. D2019-2914).

The Respondent did not file a Response. However, in the evidence filed by the Complainant, there is an email, dated January 12, 2022, sent by the Respondent in response to the Complainant's cease and desist letter, where he mentioned that "For me ikea is irakli, ketevan, eka, and aleko. First letters of my friends".

In this regard, section 2.10.2 of the WIPO Overview 3.0 states that "For a respondent to have rights or legitimate interests in a domain name comprising an acronym, the respondent's evidence supporting its explanation for its registration (and any use) of the domain name should indicate a credible and legitimate intent which does not capitalize on the reputation and goodwill inherent in the complainant's mark".

Noting that the IKEA trademark is well-known with presence in over 60 countries, the explanation provided by the Respondent is simply not credible. Instead, the Respondent appears to be trying to capitalize on the reputation and goodwill inherent to the IKEA trademark. This cannot confer rights to or legitimate interests to the Respondent in the disputed domain name (see *Audi AG v. Mohamed Maan*,

WIPO Case No. D2015-0756, and *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110).

Therefore, the Complainant made a *prima facie* case asserting that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Respondent did not submit any evidence or arguments to challenge the Complainant's assertions.

Therefore, the second element of the .GE Policy has been fulfilled.

C. Registered or Used in Bad Faith

According to paragraph 4(b) of the .GE Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

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

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

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

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

It is important to point out that paragraph 4(a) of the .GE Policy states that bad faith can be found in either the registration or the use of the disputed domain name.

As previously stated, the Complainant owns several trademark registrations for the IKEA trademark in numerous countries, including Georgia, where the Respondent has declared to have his domicile.

Given the well-known status of said trademark and considering that IKEA is a fanciful trademark that was coined by the Complainant and that is not a dictionary word, this Panel finds that the Respondent knew or should have known the Complainant and its trademark at the time of registration of the disputed domain name, which constitutes bad faith registration under the .GE Policy and the UDRP (see section 3.2.2 of the WIPO Overview 3.0).

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's well-known trademark IKEA, shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the WIPO Overview 3.0; see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. D2018-1937; *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. D2019-0980; and *Nutricia International BV v. Eric Starling*, WIPO Case No. D2015-0773).

Previous panels appointed under the UDRP have found that – depending on the case circumstances – the mere registration by an unauthorized party of a domain name that is identical to a well-known trademark, can constitute bad faith in itself (see section 3.1.4 of the WIPO Overview 3.0). This is so in the present case.

Under the .GE Policy, the findings of registration of a disputed domain name in bad faith are enough to determine that the third element has been fulfilled. However, due to the circumstances of this case, the Panel will proceed to analyze the use of the disputed domain name.

Notwithstanding that the disputed domain name is inactive, the consensus view amongst panels appointed under the Policy is that the fact that a domain name is not active does not prevent a finding of bad faith (see section 3.3 of the WIPO Overview 3.0, “From the inception of the UDRP, panelists 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”; see also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003 and “*Dr. Martens*” *International Trading GmbH* and “*Dr. Maertens*” *Marketing GmbH v. Godaddy.com, Inc.*, WIPO Case No. D2017-0246).

In the present case, the following facts have been found:

- That the Complainant's trademark IKEA is a fanciful trademark coined by the Complainant.
- That the trademark IKEA is well-known.
- That trademark IKEA refers directly and specifically to the Complainant's “IKEA” company name, which is one of the most well-known home furnishing brands in the world with more than four hundred stores in 60 countries.
- That the disputed domain name incorporates the IKEA trademark and company name in their entirety.
- That the Respondent has not filed any evidence or arguments to explain why he registered the disputed domain name. In this regard, the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding. Instead, the Respondent has given, in his communications with the Respondent, a non-credible excuse for having registered the disputed domain name.

In light of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate under the .GE Policy (see *Telstra Corporation Limited v. Nuclear Marshmallows*, *supra*, and *CBS Broadcasting Inc. v. Dennis Toeppen*, WIPO Case No. D2000-0400).

Therefore, the third element of the .GE Policy has been met.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .GE Policy and 15 of the .GE Rules, the Panel orders that the disputed domain name <ikea.ge> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: March 13, 2022