

ADMINISTRATIVE PANEL DECISION

**KPMG International Cooperative v. Domain Administrator, PrivacyGuardian /
luna Morgan, Machotech
Case No. D2022-2274**

1. The Parties

Complainant is KPMG International Cooperative, Netherlands, represented by Taylor Wessing LLP, United Kingdom.

Respondent is Domain Administrator, PrivacyGuardian, United States of America / luna Morgan, Machotech, United States of America.

2. The Domain Name and Registrar

The disputed domain name <recruits-kpmg.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2022. On June 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on June 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 1, 2022.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on July 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 28, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on August 9, 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 Rules, paragraph 7.

4. Factual Background

Complainant, KPMG International Cooperative, is a company which provides audit, tax and advisory services all over the world. Complainant operates in approximately 147 countries, with more than 219,000 employees, all under the trademark KPMG, which they have owned for over 30 years.

Complainant owns over 480 trademark registrations internationally containing the word mark KPMG. Some examples of Complainant's trademark registrations before the European Union Intellectual Property Office ("EUIPO") and the United States Patent and Trademark Office ("USPTO") can be found below:

Registration No.	Trademark	Jurisdiction	International Classes	Date of Registration
001011220	KPMG	European Union	9, 16, 35, 36, 41, 42	March 25, 2019
001179662	KPMG	European Union	9, 16, 35, 36, 41, 42	March 26, 2019
2339547	KPMG	United States of America	9, 16, 35, 36, 41, 42	April 11, 2000

Complainant is well known around the world as KPMG, for its services provided on the areas of tax, audit and advisory.

The disputed domain name was registered on April 18, 2022, and resolves to a webpage which contains Complainant's trademark KPMG.

5. Parties' Contentions

A. Complainant

Complainant claims that the disputed domain name is confusingly similar to its registered trademark KPMG, because it fully incorporates Complainant's trademark KPMG.

Complainant affirms that Respondent creates a confusion, considering specially that the disputed domain name uses the trademark KPMG in its entirety with the addition of the word "recruits", as consumers may believe that this domain name is linked to Complainant, since Complainant provides a session on its webpage destined to careers and recruitment.

Therefore, according to Complainant, the disputed domain name presents a high risk of confusion to consumers, who will likely believe it is linked with Complainant's trademark KPMG.

In addition, Complainant states that Respondent would not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark KPMG as a domain name

nor is Respondent associated with Complainant.

Complainant observes that the disputed domain name resolves to a fraudulent website, which purports to belong to the Complainant, in which Respondent supposedly provides recruitment interviews for third parties, who will most likely believe that these are services linked to Complainant.

Furthermore, Complainant notes that there would be no credible evidence from Respondent that may prove that the disputed domain name is being legitimately used, nor that Respondent is commonly known by the disputed domain name.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus the second element of the Policy has been fulfilled.

Moreover, Complainant states that (i) the disputed domain name would have been registered with the objective of leading third parties into a fraudulent scam, who would provide personal information with the believe to be dealing with Complainant's official services; (ii) the disputed domain name would have been registered with the intention of creating a likelihood of confusion with Complainant's trademark KPMG and recruitment services; and (iii) the use of the disputed domain name would disrupt Complainant's business and image, by misleading third parties into believing that it is affiliated to Complainant.

Thus, the requirements for the identification of a bad faith registration and use of the domain name would have been fulfilled.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

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

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior registered rights for KPMG, and that the disputed domain name is constituted by the trademark KPMG in its entirety with the addition of the word "recruits".

The addition of the word "recruits" does not prevent a finding of confusing similarity with Complainant's trademark KPMG. 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. See section 1.8 of the WIPO Overview of

WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark KPMG, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the [WIPO Overview 3.0](#) as follows: “[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant’s contentions, the Panel has considered Complainant’s un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name <recruits-kpmg.com>.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* offering of goods or services that could demonstrate legitimate interests, since the evidence shows that the disputed domain name resolves to a website in which Respondent tries to impersonate Complainant and its recruitment services, as duly proven by Annex 9 to the Complaint.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant’s well-known trademark KPMG, plus the addition of the word “recruits”. The Panel finds that Respondent was or should have been aware of Complainant’s rights to the trademark KPMG at the time of the registration of the disputed domain name as Complainant enjoys a worldwide reputation with the use of the referred trademark.

With that in sight, Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users in search of authentic KPMG services.

Moreover, Panel finds that the word “recruits” that accompany the trademark KPMG in the disputed domain name consists of a reference that is linked with the services provided by Complainant (as duly proven by Annex 8 to the Complaint, Complainant provides recruitment services in its official website), which indicates that the use of the trademark KPMG in the present case, while unauthorized by Complainant, is in bad faith.

In addition, the registration of the disputed domain name in the present circumstances allows a finding of bad faith registration and use, since the evidence indicates that Respondent uses the disputed domain name to execute a fraudulent scam to obtain personal data from third parties. As concluded by the panel in *The Coryn Group II, LLC, AMResorts, L.P. v. Registration Private, Domains by Proxy, LLC / Jose Arellano*, WIPO Case No. [D2020-0639](#), the fraudulent use of the disputed domain name indicates bad faith:

“The Panel is persuaded that there is a reasonable basis to believe that the Domain Name was registered and is being used by the Respondent in connection with a fraudulent scam designed to lure consumers into believing that they are dealing with the Complainant to defraud consumers. The addition of the terms ‘club’ and ‘vacation’ to the trademark of the Complainant enhances that impression. The record supports the Panel’s finding that the Respondent registered and is using the Domain Name in bad faith for commercial gain by intentionally creating a likelihood of confusion with the Complainants’ AMRESORTS Marks, and there is no legitimate use by the Respondent, and that the Respondent used the Domain Name in connection with a fraudulent scam which appears to come from someone who claims to be employed or authorized by the Complainant. That the Respondent employed a privacy protection service to register the Domain Name is consistent with this conclusion.”

Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering specially that (i) the disputed domain name contains Complainant’s trademark KPMG, which is well-known internationally, with the addition of the word “recruits”, which is associated with Complainant’s business; (ii) the disputed domain name resolves to a website which presents a fraudulent scam to third parties, as Respondent tries to impersonate Complainant to obtain personal information; and (iii) this unfair use of the disputed domain name would contribute to the disruption of Complainant’s business image, as third parties will most likely associate the disputed domain name to Complainant.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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, <recruits-kpmg.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: August 29, 2022