

## **ADMINISTRATIVE PANEL DECISION**

### **Khadi & Village Industries Commission v. Lavlesh Raut Case No. D2022-2783**

#### **1. The Parties**

Complainant is Khadi & Village Industries Commission, India, represented by Fidus Law Chambers, India.

Respondent is Lavlesh Raut, United Arab Emirates.

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

The disputed domain name <okhadi.com> is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2022, 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 July 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 30, 2022.

The Center verified that the 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 August 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2022. Respondent’s informal communications were received by the Center on August 1 and 2, 2022, respectively. On August 25, 2022, Respondent requested that the Response due date be extended. On August 26, 2022, in accordance with paragraph 5(e) of the Rules, the Center granted the extension of the Response due date until September 1, 2022. Respondent made no further communication. The Center notified the Commencement of Panel Appointment Process to the Parties on September 2, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on September 12, 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 is a statutory entity formed in 1957 by the government of India for the purpose of promoting rural employment through the development of village industries. The law creating Complainant is known as the “Khadi and Village Industries Commission Act of 1956”. Complainant is the proprietor of numerous registrations for its KHADI mark, including the following:

- Indian Trademark No. 2851531 for KHADI (word mark), registered on November 27, 2014 for goods and services in class 8, claiming a date of first use of September 25, 1956;
- Indian Trademark No. 2851556 for KHADI (word mark), registered on November 27, 2014 for goods and services in class 42, claiming a date of first use of September 25, 1956; and
- International Trademark No. 1272626 for KHADI (word mark), registered on December 2, 2014 for goods and services in classes 1, 3, 5, 16, 18, 20, 21, 23, 24, 25, 26, 27, 29, 30, 32, and 25.

The disputed domain name was registered on June 14, 2022. It resolved to a parking page hosted by the Registrar featuring pay-per-click (“PPC”) links.

#### **5. Parties’ Contentions**

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

Complainant’s contentions may be summarized as follows:

Under the first element, Complainant states that it has used the KHADI mark since the establishment of the Khadi and Village Industries Commission in 1957. Complainant generates employment in villages across India. It has offices in 28 Indian states through which it plans, promotes, organizes, and implements programs for the development of Khadi and other village industries in rural areas nationwide. It also assists in building up reserves of raw materials and facilities for processing of raw materials and semi-finished goods, and operates subsidies schemes for artisans. It authorizes retail sellers and various institutions to sell products under the KHADI mark. The mark is widely publicized and visible on social media platforms and a mobile application. The disputed domain name wholly contains Complainant’s KHADI mark together with the letter “o”.

Under the second element, Complainant states that Respondent has parked the disputed domain name and is not hosting any content on its website. The disputed domain name was registered more than six decades following the adoption of the mark. Respondent is not authorized nor licensed to use the mark in any way.

Under the third element, Complainant states that the primary aim of Respondent is to sell or transfer the disputed domain name to Complainant or any third party for valuable consideration. The fact that it is not being used is evidence of bad faith. The fame and unique qualities of the KHADI mark make it unlikely that Respondent registered the disputed domain name without knowledge of the mark.

Complainant requests transfer of the disputed domain name.

## **B. Respondent**

Respondent did not provide a formal reply to Complainant's contentions. In an email to the Center dated August 1, 2022, Respondent requested that the Complaint be restated in simple language. In an email to the Center dated August 2, 2022, Respondent expressed dissatisfaction with the prospect of withdrawing a domain name in which he has invested in connection with a business plan, and requested that action be taken against the Registrar instead. In an email addressed to the Registrar on the same date, Respondent requested that the disputed domain name be unblocked. Respondent stated that he was considering claiming damages from the Registrar for failing to conduct an investigation prior to making the disputed domain name available for sale on the Registrar's website.

## **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the 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) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[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".

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

Complainant has provided evidence establishing that it has trademark rights in the KHADI mark through registrations in India and other jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In comparing Complainant's mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark as the KHADI mark is clearly recognizable within the disputed domain name. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, 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 [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

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

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, respondent's 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) respondent has been commonly known by the disputed domain name, even if it 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 the trademark or service mark at issue.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and is not commonly known by the disputed domain name. Furthermore, the disputed domain name is nearly identical to Complainant's mark (except for the initial letter "o"), thereby creating a likely risk of connection with the trademark owner. Such holding of the disputed domain name cannot confer rights or legitimate interests.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not rebutted Complainant's *prima facie* case, and has not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent's rights or legitimate interests therein. Rather, the disputed domain name, which is nearly identical to Complainant's mark, resolves to a parking page featuring PPC links. Such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.9.

Respondent alludes to a "business plan" for use of the disputed domain name, but the record does not contain any evidence to allow the Panel to conclude that Respondent has engaged in demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or service. See [WIPO Overview 3.0](#), section 2.2.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

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

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its KHADI mark significantly predate the registration of the disputed domain name. The disputed domain name reflects Complainant's mark in its entirety, altered only by the initial letter "o", the Panel finds that such composition creates a presumption of bad faith on the part of respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The use of the disputed domain names to redirect to a PPC website is further evidence of bad faith. Respondent stated that he made an investment in the disputed domain name and alludes to a business plan, but has provided the Panel no evidence thereof. Moreover, Respondent stated that the disputed domain name had been made available for sale by the Registrar. The Panel notes that Respondent cannot disclaim its responsibility under the Policy for the content appearing on the website associated with its disputed domain name by merely claiming that the registrar should be responsible. See [WIPO Overview 3.0](#), section 3.5.

Under the circumstances, the Panel does not find any good-faith use plausible. See, for instance, *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#).

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) of the Policy.

## **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 <okhadi.com> be transferred to Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: September 26, 2022