

ADMINISTRATIVE PANEL DECISION

CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-4247

1. The Parties

The Complainant is CK Franchising, Inc., United States of America, represented by Areopage, France.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The Disputed Domain Name <ccomfortkeepers.com> was registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2022. On November 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 9, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 10, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 14, 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 the Respondent of the Complaint, and the proceedings commenced on November 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2022.

The Center appointed Edward C. Chiasson K.C. as the sole panelist in this matter on December 14, 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

The Complainant, CK Franchising, Inc. (Comfort Keepers franchise), is a leading provider of quality in-home care for seniors and adults who need assistance at home. It carries on business through franchisees under the name "Comfort Keepers". It was founded in 1986 and maintains the webpage: "<https://www.comfortkeepers.com/>".

In 2009, the Complainant was purchased by Sodexo. Sodexo is a global leader in providing quality-of-life services, with over 100 million consumers in over 56 countries.

With more than 700 offices worldwide, the Complainant has been named one of the fastest growing franchise systems by INC. Magazine. It presently is available in 13 countries, including, but not limited to, Brazil, Canada, China, France, the United Kingdom, and the United States of America.

The Complainant's care services include "In-Home Care", which the Complainant defines as "Custom in-home care to help seniors live independently at home", "Specialized Care", which the Complainant defines as "Alzheimer's and Dementia Home Care, End-of-Life Care, In-Facility Care (a full range of care services to meet the care needs of each client and every family), Private Duty Nursing". Further, older care services provided by Comfort Keepers include "Personal care", defined by the Complainant as "preserving seniors' self-esteem by helping them maintain personal hygiene", "Companionship", defined by the Complainant as "personally engaging with seniors", "Nutrition", defined by the Complaint as "preparing meals for senior clients that provide the essential nutrients and energy needed to prevent illness and maintain optimal health", "Special assistance", defined by the Complainant as "meeting the needs of senior clients who have chronic health conditions, such as Alzheimer's disease, other dementia-related conditions, diabetes, heart disease, and Parkinson's disease", and "Technology solutions", defined by the Complainant as "providing electronic devices that promote the safety and wellbeing of seniors between visits by caregivers.

The Complainant, and its "Comfort Keepers" franchise name, are consistently recognized as a leader in senior home care and received awards:

Extraordinary Achievement, Franchise Satisfaction (Franchise Research Institute): 2008 – 2018
#1 in Senior Care, Top 500 Franchises (Entrepreneur): 2015;



Circle of Excellence, National Business Research Institute (NBRI), 2018;
Endorsed National Provider by Home Care Pulse, 2016.

The Complainant is first on the list of the "AMERICA'S BEST CUSTOMER SERVICE 2020" for Home-Care Services for seniors and disabled.

The Complainant owns among others the following registered marks:

- COMFORT KEEPERS, United States of America ("USA") trademark registration no. 2366096 filed on March 25, 1999, registered on July 11, 2000, in international class 42 and duly renewed;
- COMFORT KEEPERS (device), USA trademark registration no. 2335434 filed on March 9, 1999, registered on March 28, 2000, in international class 42 and duly renewed; 11, 2000 in international class 42 and duly renewed;
- I AM A COMFORT KEEPER, USA trademark registration no. 3172466 filed on June 8, 2005, registered on November 14, 2006, in international class 45 and duly renewed;

- WE ARE COMFORT KEEPERS, USA trademark registration no. 3172467 filed on June 8, 2005, registered on November 14, 2006, in international class 45 and duly renewed;
- BE A COMFORT KEEPER, USA trademark registration no. 3258432 filed on August 21, 2006, registered on July 3, 2007, in international class 45 and duly renewed;
- COMFORT KEEPERS, European Union Trade Mark registration no. 009798001 filed on March 9, 2011, and registered on August 22, 2011, in international classes 10, 38, and 44, duly renewed;
- COMFORT KEEPERS, European Union Trade Mark registration no. 004210456 filed on December 16, 2004, and registered on January 19, 2006, in international classes 39, 43, and 45, duly renewed;
- COMFORT KEEPERS (device) European Union Trade Mark registration no. 04210481 filed on December 16, 2004, and registered on January 19, 2006, in international classes 39, 43, and 45, duly renewed.

The COMFORT KEEPERS mark, which is registered in many other countries of the world, has a strong reputation and is known in numerous countries of the world.

The Complainant is the owner of the domain name <comfortkeepers.com> and uses it to connect to its official website: "www.comfortkeepers.com".

The Disputed Domain Name is used in connection with a parking page featuring links to home care services connecting to various third party websites, including competitor's websites, and was registered on November 1, 2022.

The Complainant recently faced several attacks and fears a possible fraudulent use of the Disputed Domain Name to perpetrate an email fraud requesting its clients to pay false invoices to fake bank accounts.

5. Parties' Contentions

A. Complainant

Based on the following asserted facts and authorities the Complainant contends that the Disputed Domain Name is confusingly similar to trademarks in which it has rights.

The doubling of a letter corresponds to an obvious misspelling of the COMFORT KEEPERS mark and to typosquatting practice, which intends to create confusing similarity between Complainant's mark and the Disputed Domain Name. Cf. *Deutsche Bank AG v. New York TV Tickets Inc.*, WIPO Case No. [D2001-1314](#), and *Playboy Enterprises v. Movie Name Company*, WIPO Case No. [D2001-1201](#).

The confusion is more likely because the Complainant is the owner of the domain name <comfortkeepers.com> and uses it to connect to its official website.

Based on the following asserted facts the Complainant contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The Respondent has no rights to COMFORT KEEPERS as a corporate name, trade name, shop sign, mark or domain name that would be prior to the Complainant's rights to the trademark COMFORT KEEPERS.

The Respondent was not commonly known by the Disputed Domain Name prior to the adoption and use by the Complainant of the business name and mark COMFORT KEEPERS.

The Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorized, licensed or otherwise permitted by the Complainant or by any subsidiary or affiliated company to register the Disputed Domain Name and to use it.

Based on the following asserted facts and authorities the Complainant contends that the Respondent registered and is using the Disputed Domain Name in bad faith.

The Complainant refers to and relies on the Policy, paragraph 4(b) that sets out a non-exhaustive list of circumstances indicating bad faith.

The COMFORT KEEPERS mark is purely fanciful and nobody could legitimately choose this word or any variation thereof, unless seeking to create an association with the mark. The Respondent obviously knew the existence of the COMFORT KEEPERS marks when she registered the Disputed Domain Name. She knew that she had no rights or legitimate interests in the Disputed Domain Name.

Previous decisions issued under the UDRP have recognized that actual knowledge of a complainant's trademarks and activities at the time of the registration of a disputed domain names may raise an inference of bad faith: (*LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. [D2010-0494](#); *Caixa D'Estalvis I Pensions de Barcelona (« La Caixa ») v. Eric Adam*, WIPO Case No. [D2006-0464](#); *Accor, So Luxury HMC v. Youness Itsmail*, WIPO Case No. [D2015-0287](#))

There is a "principle established in previous UDRP decisions that the registration of a domain name incorporating a widely-recognized or well-known trademark by someone who has no connection with the trademark is a clear indication of bad faith". (*Sodexo v. Shahzan / PrivacyProtect.org*, WIPO Case No. [D2013-1308](#)).

The Respondent is using the Disputed Domain Name by exploiting the confusion with the Complainant's mark to attract Internet users and to incite them to click on third commercial links specialized in home care services that directly compete with the business undertaken under the Complainant's marks.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.9 states: "Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users."

Bad faith registration and use have been found when a disputed domain names resolve to parking pages containing pay-per-click sponsored links based on the trademark value of the domain names: (*Champagne Lanson v. Development Services/MailPlanet.com, Inc*, WIPO Case No. [D2006-0006](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co*, WIPO Case No. [D2000-0163](#).)

The unauthorized use and registration of the Disputed Domain Name by the Respondent to attract and redirect Internet users to third-party websites are solely for the purpose of achieving commercial gain and constitute bad faith registration and use.

The Respondent's use may not only be confusing for consumers, but also can dilute the COMFORT KEEPERS mark.

Bad faith use may result from the threat of an abusive use of the Disputed Domain Name at by the Respondent. (*Conair Corp. v. Pan Pin, Hong Kong Shunda International Co. Limited*, WIPO Case No. [D2014-1564](#)).

The Complainant asserts and relies on a pattern of conduct or bad faith registration and use of domain names by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has provided clear evidence that it has rights in the trademark COMFORT KEEPERS and that the trademark is well known.

The Disputed Domain Name merely adds the letter “c” to the Complainant’s mark and incorporates completely the Complainant’s mark. The added “c” does not prevent a finding of confusing similarity. (Sections 1.7 and 1.8 of the [WIPO Overview 3.0](#)). The addition of the generic Top-Level Domain, “com”, is irrelevant for purposes of the first element. (Section 1.11.1 of the [WIPO Overview 3.0](#)).

The Disputed Domain Name is confusingly similar to the trademark in which the Complainant has rights. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(i)

B. Rights or Legitimate Interests

The Complainant did not authorize the Respondent to use its trademark. The Respondent has not been identified with and is not commonly known by the Complainant’s mark or by the name of the entity that carries on business using the mark. The Respondent has advanced no explanation for using the Complainant’s mark or shown any legitimate interests or rights in the Complainant’s mark.

The Disputed Domain Name was registered and used long after the Complainant registered its trademarks.

The typo in the Complainant’s Mark represented in the Disputed Domain Name by the added “c” is demonstrative of the Respondent’s lack of rights or legitimate interests. Such typo illustrates the Respondent’s intent to mislead unsuspecting Internet users, unaware of the typo in the Disputed Domain Name and expecting to find the Complainant, who are directed to the Respondent’s pay-per-click landing page through which the Respondent presumably earns click-through revenue.

Moreover, the commercial links found at the Disputed Domain Name redirect Internet users to third parties specialized in home care services that directly compete with the business undertaken under the Complainant’s marks. See [WIPO Overview 3.0](#), section 2.9.

The Panel finds that the Complainant has made a *prima facie* case showing that the Respondent does not have rights to or legitimate interests in the Disputed Domain Name, which the Respondent has not rebutted. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered and used long after the Complainant registered its trademark. COMFORT KEEPERS, which was recognized as well known. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. (See section 3.1.4 of the [WIPO Overview 3.0](#)).

The Respondent added the letter “c” to the Complainant’s trademark. This typo could confuse Internet users into the expectation that they would reach a website operated by the Complainant. Such misdirection would appear to be the intent of the Respondent given the use of the Disputed Domain Name for a pay-per-click landing page featuring sponsored links to competitors of the Complainant. It is bad faith registration and use for a disputed domain names to resolve to a parking page containing pay-per-click sponsored links based on the value of the trademark (*Champagne Lanson v. Development Services/MailPlanet.com, Inc*, WIPO Case No. [D2006-0006](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#)).

The Respondent appears to be a serial cybersquatter and has engaged in a pattern of bad faith registration directly regarding the Complainant's mark. See, e.g., *CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0751](#); *CK Franchising, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-2217](#).

The Panel finds that the Respondent registered and is using the Disputed Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(iii).

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, <ccomfortkeepers.com>, be transferred to the Complainant.

/Edward C. Chiasson K.C./

Edward C. Chiasson K.C.

Sole Panelist

Date: December 29, 2022