

ADMINISTRATIVE PANEL DECISION

Masco Corporation and Kraus USA Plumbing LLC v. 朱杰 (jie zhu)
Case No. D2024-0511

1. The Parties

The Complainants are Masco Corporation (“First Complainant”) and Kraus USA Plumbing LLC (“Second Complainant”), United States of America (“USA” or “United States”), represented by Demys Limited, United Kingdom.

The Respondent is 朱杰 (jie zhu), China.

2. The Domain Name and Registrar

The disputed domain name <kraus-usa.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 6, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 2024, 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 in English on February 8, 2024.

On February 7, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On February 8, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on February 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 8, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on March 14, 2024. 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 First Complainant, Masco Corporation, is a company headquartered in the USA and designs, manufactures, and distributes decorative architectural products and plumbing products. The First Complainant was founded in 1929 as Masco Screw Products Company. The First Complainant currently owns 104 subsidiaries, operates 38 manufacturing facilities of which 30 are in North America, and employs 19,000 people around the globe. The First Complainant has various subsidiaries, including Kraus USA Plumbing LLC, the Second Complainant. The Second Complainant particularly designs and manufactures kitchen and bathroom sinks, faucets, and accessories.

The Second Complainant owns an international trademark portfolio for the KRAUS marks, including but not limited to United States trademark registration KRAUS No. 3478540, registered on August 5, 2008; European Union trademark registration KRAUS No. 011259181, registered on June 23, 2013; and Chinese trademark registration KRAUS No. 11970558, registered on January 14, 2017. The Second Complainant also owns a domain name portfolio, including <kraususa.com>.

The Complainants' abovementioned trademark registrations were registered before the registration date of the disputed domain name, namely October 21, 2023. The Complainants provide evidence that the disputed domain name is linked to an active website which impersonates the Second Complainant's official website hosted at "www.kraususa.com" (by adopting, amongst other elements, a similar website structure, the similar colour scheme; prominently displaying the Second Complainant's KRAUS mark throughout the website; placing a misleading copyright notice and by using copyrighted product photographs and other graphical illustrations directly copied from the Second Complainant's website). The website linked to the disputed domain name appears to offer the Second Complainant's products (such as kitchen and bathroom sinks, taps, and accessories) at a heavy discount.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is confusingly similar to their prior registered trademarks since it incorporates the KRAUS trademark in its entirety with the mere addition of the descriptive word "-usa". Furthermore, the Complainants essentially contend that the Respondent is not affiliated in any way to the Complainants and has no rights or legitimate interests in the Complainants' trademarks. The Complainants also essentially argue that the Respondent connected the disputed domain name to an active website which impersonates the Second Complainant's official website and purportedly offers the Second Complainant's products (such as kitchen and bathroom sinks, taps, and accessories) at a heavy discount, by reference to the Complainants' trademarks, which are prominently used on the website linked to the disputed domain name, without disclosing accurately and prominently the Respondent's lack of relationship with the Complainants. The Complainants state that the Respondent targeted them to deceive

Internet users into believing that the website linked to the disputed domain name is associated with or authorised by the Complainants. The Complainants contend that such use does not confer any rights or legitimate interests on the Respondent and constitutes evidence of bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 First Preliminary Issue: Consolidation of the Complainants

The Complaint was filed by multiple Complainants against a single Respondent. The Complainants argue that the consolidation of multiple complainants is appropriate in the present case.

The Panel notes that neither the Policy nor the Rules expressly provides for, or prohibits the consolidation of multiple complainants. In this regard, section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that: "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

In this regard, the Panel notes that both Complainants form part of the same corporate group, the Second Complainant is a wholly-owned subsidiary of the First Complainant and is the owner of the abovementioned KRAUS trademarks, which would be sufficient to accept the Complainant's request for consolidation. In addition, the Panel further notes that the KRAUS trademarks are used by both of the Complainants in their business. Therefore, the Panel finds that the Complainants have specific and common grievances against the Respondent. Moreover, the Panel finds that in this case, it is equitable and procedurally efficient to permit the consolidation of their complaints. The Panel also notes that the Respondent did not object to the Complainants' request for consolidation.

Based on the above reasons, the Panel decides to allow the consolidation of the Complainants, and the Complainants shall further be referred to as the "Complainant".

6.2 Second Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name is made up of the Complainant's English-language name and mark (KRAUS) as well as the geographical English term "usa" in Latin characters; the fact that the website associated with the disputed domain name is in English (including the KRAUS product promotions) which strongly indicates that the Respondent is familiar with the English language; the fact that the registration of the disputed domain name in the Top-Level Domain ".com" rather than ".cn" is indicative of the Respondent's intent to target English speaking Internet users; and the allegation that ordering the Complainant to translate the Complaint in English will cause undue delay and costs.

The Respondent did not make any submissions with respect to the language of the proceeding.

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 (see [WIPO Overview 3.0](#), section 4.5.1).

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

6.3 Substantive Issues

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark KRAUS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term here, "-usa", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

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 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 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 3.0](#), 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.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website which appears to offer the Second Complainant's products (such as kitchen and bathroom sinks, taps and accessories) at a

heavy discount. The Panel notes that it is clear that the Respondent is attempting to misrepresent this website as the Second Complainant's website by adopting, amongst other elements, a similar website structure; a similar colour scheme; prominently displaying the Second Complainant's KRAUS mark throughout the website; placing a misleading copyright notice and by using copyrighted product photographs and other graphical illustrations directly copied from the Second Complainant's website. The Panel notes that this suggests that the Respondent is using the disputed domain name to mislead Internet users by creating a misleading affiliation with the Complainant. Moreover, even if some of the products purportedly offered on such website are legitimate products originating from the Complainant, the website at the disputed domain name does not display any accurate and prominent disclaimer regarding the relationship between the Complainant and the Respondent. The Panel is of the view that the foregoing elements illustrate that the Respondent is not a good faith provider of goods or services under the disputed domain name, see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Given the abovementioned elements, the Panel concludes that the Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Panel finds that the nature of the disputed domain name, being confusingly similar to the Complainant's trademarks and containing the common geographical abbreviation "-usa", which clearly refers to the Complainant's location, and being almost identical to the Complainant's official domain name hosting its main website, namely <kraususa.com>, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

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

C. Registered and Used in Bad Faith

Given the longstanding and intensive use of the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name, which is confusingly similar to such marks and contains the common geographical abbreviation "-usa", which clearly refers to the Complainant's location and imitates its official domain name <kraususa.com>, clearly and consciously targeted the Complainant's prior registered trademarks. The Panel also notes that previous decisions applying the Policy have recognized the Complainant's rights in the KRAUS mark, e.g., *Masco Corporation and Kraus USA Plumbing LLC v. Lijing Zhang*, WIPO Case No. [D2023-3379](#). On the basis of the foregoing elements, the Panel concludes from this attempt to consciously target the Complainant's prior and reputable trademarks that the Respondent knew of the existence of the Complainant's trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name seems to be used to impersonate the Complainant and to purportedly offer for sale products that may be misrepresented as the Complainant's products, since this proves that the Respondent is fully aware of the Complainant's business and its prior trademarks. In the Panel's view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs to an active website, which appears to offer the Second Complainant's products (such as kitchen and bathroom sinks, taps and accessories) at a heavy discount and which shows a clear intent on the part of the Respondent to impersonate the Complainant by adopting, amongst other elements, a similar website structure, the similar colour scheme; prominently displaying the Second Complainant's KRAUS mark throughout the website; placing a misleading copyright notice and by using copyrighted product photographs and other graphical illustrations directly copied from the Second Complainant's website. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

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

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 <kraus-usa.com> be transferred to the Second Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 22, 2024