

DISPUTE RESOLUTION SERVICE

D00019341

Decision of Independent Expert

Inter IKEA Systems B.V.

and

Dazzle Junior Couture

1. The Parties

Complainant: Inter IKEA Systems B.V.
Olof Palmestraat 1
2616 LN Delft
Netherlands

Respondent: Dazzle Junior Couture
Oak Tree Barn
Gwent, NP18 1LS
United Kingdom

2. The Domain Name

<ikeahome.uk>

3. Procedural History

The Expert has confirmed that he is independent of each of the parties. To the best of his knowledge and belief, there are no facts or circumstances, past or present, or

that could arise in the foreseeable future, that need be disclosed as they might be of a such a nature as to call in to question his independence in the eyes of one or both of the parties.

21 September 2017 15:58 Dispute received
21 September 2017 16:10 Complaint validated
21 September 2017 16:12 Notification of complaint sent to parties
27 September 2017 09:32 Response received
27 September 2017 09:32 Notification of response sent to parties
02 October 2017 02:30 Reply reminder sent
03 October 2017 14:46 Reply received
05 October 2017 10:44 Notification of reply sent to parties
05 October 2017 10:45 Mediator appointed
10 October 2017 12:18 Mediation started
23 October 2017 16:18 Mediation failed
23 October 2017 16:19 Close of mediation documents sent
27 October 2017 10:46 Expert decision payment received

4. Factual Background

The Complainant is a supplier of home furnishings and accessories, sold through a worldwide network of franchised retailers and marketed under the brand IKEA.

The Complainant is the owner of numerous registrations for the trademark IKEA in territories throughout the world. Its registrations include European Union Trade Mark number 000109652 for the word mark IKEA, registered on 1 October 1998 for numerous classes of goods and services including those relating to “articles for interior decoration, home and family.”

The Respondent registered the Domain Name on 20 March 2017. According to Nominet’s procedural review carried out on 21 September 2017, the Domain Name resolved on that date to a website at “www.snughomeware.co.uk” which appeared to offer homewares for sale online. The Domain Name is currently inactive.

5. Parties’ Contentions

Complaint

The Complainant states that its mark IKEA is an invented term, reflecting the name and home district of its founder. It contends that the mark IKEA has no meaning in commerce other than as a trademark designating the origin of the Complainant’s products.

The Complainant states that it has 393 franchised IKEA stores in 48 countries around the world and that its aggregate turnover in 2016 was EUR 36.4 billion. It states that

it owns over 1,500 trademarks and over 300 domain names including the mark IKEA and that its website had over 2.1 billion visitors in 2016. It also provides evidence of recognition of the mark IKEA in various rankings, including at number 26 in the “Best Global Brands” published by Interbrand.

As a result of the above matters, the Complainant contends that its mark IKEA possesses both inherent and acquired distinctiveness and has the status of a well-known or famous trademark.

The Complainant contends that it has Rights in respect of a name or mark which is identical or similar to the Domain Name. In particular, the Complainant argues that the Domain Name wholly incorporates its distinctive trademark IKEA and adds the term “home”, which relates directly to the Complainant’s primary business of selling home furnishings and accessories.

The Complainant submits that the Domain Name, in the hands of the Respondent, is an Abusive Registration. The Complainant contends that it is evident from the nature of the Domain Name, comprising its trademark IKEA with the addition of the term “home”, that the Respondent was aware of the Complainant’s well-known trademark at the time it registered the Domain Name and that it did so in order to take unfair advantage of the goodwill attaching to that trademark.

The Complainant submits that the Respondent’s use of the Domain Name to resolve to the website at “www.snughomeware.co.uk” is further evidence of abusive conduct. The Complainant exhibits a printout of the homepage of that website (although undated) to which it submits the Domain name has resolved. The Complainant contends that Internet users are likely to visit the Respondent’s website in the expectation of finding the Complainant’s business but will in fact arrive at the Respondent’s website which offers competing products. The Complainant submits, in particular, that the Respondent has used the Domain Name in a way which has confused or is likely to confuse people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant as contemplated by paragraph 5.1.2 of the Nominet Dispute Resolution Service Policy (“the Policy”). The Complainant argues that it does not assist the Respondent that Internet users may eventually realise they have reached the wrong destination, as the Respondent will already have taken unfair advantage of the goodwill in the Complainant’s trademark by misdirecting them to its own website.

The Complainant also produces evidence of three “cease and desist” letters sent to the Respondent in June 2017. The Complainant says that it did not receive a response to any of these letters.

The Complainant requests the transfer of the Domain Name.

Response

The Respondent states that the Domain Name was freely available for public purchase through the registrar GoDaddy and that it has not acted unlawfully in registering the Domain Name.

The Respondent admits that it operates the website at “www.snughomeware.co.uk” but denies that the Domain Name resolves to that website. The Respondent states that the website does not trade in any event.

The Respondent states that it acquired the Domain Name for the purpose of a blog commenting on and reviewing IKEA products but it has not yet had an opportunity to set up that blog.

The Respondent denies having received any communication from the Complainant concerning the Domain Name.

The Respondent offers to sell the Domain Name to the Complainant.

Reply

The Complainant reiterates that the Domain Name resolved to the site at “www.snughomeware.co.uk” even though it may now be inactive. It disputes that the Domain Name was registered for the purposes of a blog and declines the offer to purchase the Domain Name, which it submits infringes its trademark.

6. Discussions and Findings

Under paragraph 2 of the Policy:

“2.1 A Respondent must submit to proceedings under the DRS if a Complainant asserts to us, according to the Policy, that:

2.1.1 The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and

2.1.2 The Domain Name, in the hands of the Respondent, is an Abusive Registration

2.2 The Complainant is required to prove to the Expert that both elements are present on the balance of probabilities.”

Under paragraph 1 of the Policy the term “Rights”:

“... means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning.”

Also under paragraph 1 of the Policy, the term “Abusive Registration” means a domain name which either:

- “i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; or*
- ii. is being or has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.”*

Paragraph 5 of the Policy sets out a non-exhaustive list of factors that may be evidence that a domain name is an Abusive Registration. Paragraph 8 of the Policy sets out a non-exhaustive list of factors that may be evidence that it is not an Abusive Registration. However, all such matters are subsidiary to the overriding test for an Abusive Registration as set out as in paragraph 1 of the Policy.

Rights

The Complainant has established that it is the owner of registered trademark rights in the name and mark IKEA in connection with products for the home. The Expert finds the Complainant’s trademark to be distinctive and to be widely recognised by the public. The Domain Name incorporates the Complainant’s trademark in its entirety and adds the term “home”, which is suggestive of the Complainant’s primary area of activity. The Expert also notes that, even on the Respondent’s own case that the Domain Name was intended for the purposes of a blog reviewing the Complainant’s products, the Domain Name was intended to refer to the Complainant’s trademark. In the circumstances, the Expert finds that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name.

Abusive Registration

Based on the evidence of the Nominet procedural review and the printout provided by the Complainant, the Expert finds as a fact that, while the Domain Name may now be inactive, the Respondent has used the Domain Name to resolve to a website at “www.snughomeware.co.uk” which purported to offer products for the home that were not the Complainant’s.

Given the distinctiveness and widespread public recognition of the Complainant’s trademark IKEA in connection with homewares, the Expert considers it inconceivable that the Respondent registered the Domain Name for any purpose other than to take unfair advantage of the goodwill in the Complainant’s trademark by misleading Internet users. It is not a legitimate answer for the Respondent to say that the

Domain Name was freely available for registration where the conditions set out in paragraph 2 of the Policy are met. The Expert also rejects the Respondent's contention that the Domain Name was registered for the purpose of a blog: the Respondent has produced no evidence of any preparations in that regard and, in any event, the Expert finds that Domain Name is by its nature misleading.

The Expert finds, in particular, that the Respondent's registration and use of the Domain Name constituted an impersonation of the Complainant and that the Respondent has used the Domain Name in a way which has confused or is likely to confuse people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant (paragraph 5.1.2 of the Policy).

The Expert therefore concludes that the Domain Name, in the hands of the Respondent, is an Abusive Registration.

7. Decision

The Expert has found that the Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration. The Complaint therefore succeeds and the Expert directs that the Domain Name, <ikeahome.uk> be transferred to the Complainant.

Signed: Steven A. Maier

Independent Expert

Dated: 8 November 2017

