



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-1901251
<b>Complainant:</b>	Inter IKEA Systems B.V.
<b>Respondent:</b>	Dominique Toretto, Kosong
<b>Disputed Domain Name(s):</b>	<ikea-id.com>

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**1. The Parties and Contested Domain Name**

The Complainant is Inter IKEA Systems B.V., of Olof Palmestraat 1, Delft, The Netherlands.

The Respondent is Dominique Toretto, Kosong, of Jln sukar raya no 7 Gang buntu, Jakarta.

The domain name at issue is ikea-id.com, registered by Respondent with webnic.cc, of Web Commerce Communications (Singapore) Pte. Ltd. 410 North Bridge Road, Singapore.

**2. Procedural History**

On 24 June 2019, the Complainant filed a Complaint in this matter with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC-HK”). On 26 June 2019, the ADNDRC-HK confirmed receipt of the Complaint and requested the Complainant to submit the case filing fee.

On the same day, the ADNDRC-HK notified webnic.cc (“Registrar”) of the Disputed Domain Name of the proceedings by email.

On the same day, the Registrar acknowledged the email of ADNDRC-HK confirming that the Disputed Domain Name is registered with the Registrar, that Kosong is the holder of the Disputed Domain Name, that the Internet Corporation for Assigned Names and Numbers Uniform Domain Name Dispute Resolution Policy (“the Policy”) is applicable to the Disputed Domain Name, the language of the Disputed Domain Name is English as provided by the WHOIS information in relation to the Disputed Domain Name and confirmed that the Disputed Domain Name is under Registrar lock status.

On 7 August 2019, the ADNDRC-HK sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of the Respondent’s nominated registrant

contact for the Disputed Domain Name (as recorded in the WHOIS database). The Notification gave the respondent twenty (20) calendar days to file a Response (i.e. on or before 27 August 2019).

The Panel comprising of Dr. Shahla F. Ali as a single panelist was appointed by the ADRDRC-HK on 11 September 2019. The papers pertaining to the case were delivered to the Panel by email on 16 September 2019.

### 3. Factual background

According to the documents submitted by the Complainant, the Complainant is a well-known franchisor of furniture and home furnishing products marketed using the "IKEA" trademark. There are 423 IKEA stores in 52 countries operating under IKEA franchise agreements, totaling around 208,000 employees. In 2018, the annual sales amounted to EUR 38.8 billion.

According to the Complainants submissions, the Complainant owns more than 2000 "IKEA" trademarks in more than 90 countries, which are registered in various classes of goods and services.

In Indonesia, the Complainant owns various "IKEA" trademarks which are registered at the Directorate Intellectual Property Rights cq. Directorate of Trademark of Indonesia ("Indonesian Trademark Office"), covering various kinds of goods and services, including but not limited to the following trademark registrations:

No	Trademark	Registration No.	Registration Date
1	 IKEA (device & word in black and white)	IDM000432743	29 October 2014
Class: 35  Retail store services, retail department store services, department stores, retail shops for all types of goods, retail shop-services for all types of products online, goods supply and sale services, department store services, franchise services, namely, provision of technical assistance in the establishment and / or merger of department stores for retail trading, catalogue services, including compilation, installation and related catalogues of trade goods, advertising, business services for support the promotion of new products on the market, marketing, advertising with point purchasing systems, promotions, sales promotions, business management, business administration, information services, retail distributors and retail trade online for various items including bathroom equipment, products personal hygiene, household electrical appliances, general electronic products, audio-visual equipment and accessories, articles made of leather and an imitation, textile-textiles, fabrics for home furnishings, household linen, upholstery / bed linens, fashion accessories mattresses, per accessories that can be used directly by post / shipping, sales, advertising and direct shipping, demonstration of goods, sample distribution (example), store management, arranging the display of goods (displays), promotions and exhibitions for advertising purposes.			
2	 IKEA (device & word in blue and yellow)	IDM000433821	29 October 2014
Class: 35			

No	Trademark	Registration No.	Registration Date
<p>Retail store services (retail trade); retail department stores (department stores), ordering services, retail store services for all types of goods; retail store services for all types of goods online (online); goods supply and sale services; department store services; franchise business services, namely, the provision of technical assistance in the establishment and / or operation of department stores for retail trading; catalogue services, including compiling, managing and publishing merchandise catalogues; advertising; business services to support the introduction of new products on the market; marketing; advertising with the purchase point system; promotion; sales promotion; business management; business administration; information services, retail distributors and retail trade online for various types of goods including toiletries, personal hygiene products, household electrical appliances, consumer electronic products, audio-visual equipment and accessories, goods made of leather and imitation leather, textiles and textile goods, fabrics for home furnishings, household utensils, mattress linings, clothing and fashion accessories, advertising directly by post / delivery of advertising materials; sales, advertising and marketing services online (online); demonstration of goods; sample distribution (example); shop glass arrangement; display arrangement; promotions and exhibitions for advertising purposes.</p>			
3	 IKEA (device & word in blue and yellow)	IDM000424087	19 September 2014
<p>Class : 21</p> <p>Drinkware made of glass, cooking utensils made of glass; coffee pot (not electric), equipment for entertaining tea (not from precious metals); equipment and containers for household or kitchen purposes; comb and sponge (sponges); brush (except brush for painting); brush-making materials; equipment for cleaning purposes; steel coir for rubbing; unworked or partially worked glass (except glass used in buildings).</p>			
4	 IKEA (device & word in blue and yellow)	IDM000424086	19 September 2014
<p>Class : 20</p> <p>Furniture; bulletin board; basket for storage; basket box; packaging materials, i.e. plastic boxes for storage; cardboard box for storage; shelves for hats; shelves for suits; hangers for hats and suits; shelves for magazines; and shelves for shoes.</p>			
5	 IKEA (device & word in blue and yellow)	IDM000092009	25 January 2015
<p>Class : 35</p> <p>Advertising, business management; business administration; office functions</p>			
6	 IKEA (word & device)	IDM000424079	19 September 2014
<p>Class : 20</p> <p>Furniture; bulletin board; basket for storage; basket box; packaging materials, i.e. plastic boxes for storage; cardboard box for storage; shelves for hats; shelves for suits; hangers for hats and suits; shelves for magazines; and shelves for shoes.</p>			

No	Trademark	Registration No.	Registration Date
7	<b>IKEA</b> IKEA	IDM000553488	2 December 2016
Class : 21  Drinkware made of glass, cooking utensils made of glass; coffee pot (not electric), equipment for entertaining tea (not from precious metals); equipment and containers for household or kitchen purposes; comb and sponge (sponges); brush (except brush for painting); brush-making materials, equipment for cleaning purposes; steel coir for rubbing; glass that has not been worked on or done in part (except glass used in buildings).			
8	<b>IKEA</b> IKEA	IDM000430092	10 October 2014
Class : 35  Retail store services (retail trade); retail department stores (department stores), ordering services, retail store services for all types of goods; retail store services for all types of goods online (online); goods supply and sale services; department store services; franchise business services, namely, the provision of technical assistance in the establishment and / or operation of department stores for retail trading; catalogue services, including compiling, managing and publishing merchandise catalogues; advertising; business services to support the introduction of new products on the market; marketing; advertising with the purchase point system; promotion; sales promotion; business management; business Administration; information services, retail distributors and retail trade online for various types of goods including toiletries, personal hygiene products, household electrical appliances, consumer electronic products, audio-visual equipment and accessories, goods made of leather and imitation leather, textiles and textile goods, fabrics for home furnishings, household utensils, mattress linings, clothing and fashion accessories, advertising directly by post / delivery of advertising materials; sales, advertising and marketing services online (online); demonstration of goods; sample distribution (example); shop glass arrangement; display arrangement; promotions and exhibitions for advertising purposes.			

The Respondent Dominique Toretto, Kosong, of Jln sukar raya no 7 Gang buntu, Jakarta registered the disputed domain name on 13 March 2019. The Respondent did not file a Reply with the Centre.

#### 4. Parties' Contentions

##### A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant contends that it has been using its "IKEA" trademarks, together with other intellectual properties owned extensively and well-known for various kinds of goods and services in various countries. Therefore, the "IKEA" trademarks and all related intellectual properties are important assets of the

Complainant. As a result of such extensive use of its intellectual properties, the Complainant has developed a substantial reputation in using the "IKEA" name. The Complainant provides for reference court decisions from various countries, acknowledging the status of "IKEA" trademarks as being well-known.

The Complainant also notes that it owns more than 900 domain names consisting in all or in part of the "IKEA" trademark, including <ikea.com> as primary domain name and also <ikea.co.id> as its Indonesian domain name.

The Complainant contends that it became aware of the fraudulent activities on the website linked to the disputed domain name, after receiving reports from its Indonesian franchisee in March 2019. The Complainant provides a summary of the factual background as follows:

- Since 16 March 2019, the Complainant's franchisee in Indonesia has been receiving inquiries from the public about the flash sales of "IKEA MALM" products on the website linked to the disputed domain name for the period between 19 and 20 March 2019. In relation to this, various consumers have purchased the "IKEA MALM" products from the website linked to <ikea-id.com>, but they never received the products although they have completed the payment as instructed on the website.
- Most of the consumers were directed to the disputed domain name after they accessed links from Instagram accounts, promoting the "IKEA MALM" products.
- When consumers placed the purchase orders, they were asked to complete the payment through third party payment gateways (i.e., Paytren and Bisatopup) to the virtual bank accounts under the name of "Ikea Indonesia" (the accounts are registered in local Indonesian banks namely Bank Central Asia, Bank Danamon and Bank Rakyat Indonesia). However, the consumers never received the products although they have completed the payment.
- From various purchase numbers verified by the Complainant's franchisee in Indonesia, the Complainant confirmed that the numbering systems in the reported purchase orders were not in accordance with web order numbering system in Indonesia. Until 20 March 2019, there were 43 complaints received by the Complainant's franchisee in Indonesia. The approximate amount of losses suffered by consumers to date is IDR11.5 million.
- On 24 March 2019, the Complainant launched a phishing take down against the disputed domain name. Currently, <ikea-id.com> is not accessible.

Complainant contends that given that the word element "IKEA" is used as the main element of the disputed domain name, it is clear that the disputed domain name of <ikea-id.com> is identical with or confusingly similar to the Complainant's trademark.

The use of the "id" element after the "ikea" element is also similar to Complainant's Indonesian domain name of <ikea.co.id>, which has caused

confusion among Indonesian internet users and made them think that the disputed domain name is the Complainant's website, which is incorrect.

- ii. The Respondent has no rights or legitimate interests in respect of the domain name:

The Complainant argues that in general, any use of the "IKEA" trademark for the promotion of goods or services, including as part of a domain name, should be based on a license from the Complainant as the owner of the "IKEA" trademarks. The Complainant further notes that it has never authorized anyone to register <ikea-id.com> or operate any website to promote, sell or distribute IKEA products using the domain name of <ikea-id.com>.

Further, the Complainant notes that in Indonesia, the Complainant only authorized its Indonesian franchisee to carry out online sales, promotion and distribution of "IKEA" products through the domain name of <ikea.co.id>. From the website heading of <ikea.co.id>, the Complainant and its Indonesian franchisee have made it clear to the consumers to only purchase "IKEA" products from the authorized website, which is <ikea.co.id>.

Therefore, the Complainant submits that it has no knowledge or belief of any rights or legitimate interests of the Respondent in the disputed domain name. Moreover, the Complainant has no business or any other relationship with the Respondent. Hence, it is clear that the Respondent has no rights in respect of the disputed domain name.

The Complainant further argues that given the fraudulent activities linked to the disputed domain name, it is clear that the disputed domain name is being used with an intent to derive commercial gain and to misleadingly divert consumers or tarnish the Complainant's trademark.

The Complainant highlights the fact that the use of the blue and yellow "IKEA Logo" trademark on the website linked to the disputed domain name should demonstrate the Respondent's intention to create a false impression of sponsorship by the Complainant or at least assumption among Internet users that the website is endorsed by or affiliated with the Complainant.

- iii. The disputed domain name has been registered and is being used in bad faith:

On the bad faith issue, the Complainant contends that the <ikea-id.com> site has been registered and is being used in bad faith, based on the following reasons:

- a) The disputed domain name displays the Complainant's "IKEA & Logo" trademarks and copyrighted images as website content to deceive Internet users.

Complainant contends that from the screenshots of the disputed domain name, the disputed domain name displays the Complainant's "IKEA & Logo"

trademarks which are registered in various countries, including in Indonesia. Moreover, it also contains images of "IKEA MALM" products similar to the ones published on the Complainant's online catalogues and websites, which have caused consumers to think that they were purchasing the "IKEA MALM" products through the Complainant's website.

Moreover, Complainant argues that the fact that the consumers were linked to virtual bank accounts under the name of "Ikea Indonesia" to complete the payment should clearly demonstrate that the disputed domain name is being used in bad faith.

Therefore, Complainant contends that the Respondent intentionally used the disputed domain name to attract Internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's trademark mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

b)The disputed domain name is being used to carry out fraudulent activities

The Complainant argues that the Respondent is using the disputed domain name to deceive Internet users into thinking that the disputed domain name is operated by the Complainant or the Complainant's franchisee in Indonesia, which is incorrect.

The Complainant further argues that the Respondent has also been using the disputed domain name to carry out fraudulent activities for the Complainant's consumers in Indonesia, by deceiving them to purchase "IKEA" products from the website inked to <ikea-id.com>. The fact that until 20 March 2019, there have been 43 complaints received by the Complainant's franchisee in Indonesia clearly shows the fact that the disputed domain name has been registered and is being used in bad faith.

c)The Respondent used privacy service to hide its identity

Moreover, the Complainant also believes the use of privacy service by the Respondent to hide its identity should also indicate bad faith use. On 27 March 2019 and 8 April 2019 the Complainant sent a cautionary letter as well as its reminder to the privacy service used by the Respondent (Whoisprotection.cc) to disclose the identity of the Respondent, but Whoisprotection.cc failed to respond to the Complainant's requests. Therefore, the Complainant decided to initiate the phishing take down request against the disputed domain name.

d)There is another domain name with similar contents to the disputed domain name

Nevertheless, the Complainant also highlights that after carrying out a phishing takedown against the domain name, it discovered another domain name of <ikea.id-store.co/in/>, comprising contents similar to the disputed domain name of <ikea-id.com>, offering a flash sale of "IKEA MALM" products only for the date of 24 March 2019.

The Complainant notes that it has tried to carry out a 'whois' check through the ICANN WHOIS lookup tool (<https://whois.icann.org/>) for the domain name of <ikea.id-store.co/in/>, but the details concerning this domain name cannot be revealed based on the reason that "the requested top-level domain is not supported; this tool supports all delegated gTLDs contracted with ICANN and their corresponding second level domains".

On 6 May 2019, the Complainant also filed a phishing takedown against <ikea.id-store.co/in/> and this domain name is currently inaccessible.

Complainant finally argues that given the websites linked to the domain names <ikea.id-store.co/in/> and <ikea-id.com> displayed the same contents, there is a likelihood that the actual registrants of those domain names are the same party. Therefore, this shows the fact that <ikea-id.com> has been registered and is being used in bad faith.

## B. Respondent

The Respondent's contentions may be summarized as follows:

The Respondent did not submit a reply.

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's 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 domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

### A) Identical / Confusingly Similar

The Complainant has established its right to the "IKEA" trademark by submitting trademark registration certificates and records in a number of jurisdictions including in Indonesia. The disputed domain name <ikea-id.com> contains three elements: "Ikea" "id" and the top-level domain ".com". Numerous UDRP precedents have established that the top-level domain does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion.

The only distinctive part of the disputed domain should be "Ikea", which is identical to the Complainant's "IKEA" trademark and trade name. This striking resemblance will no doubt mislead consumers into believing that the website is operated by or associated with the Complainant. The Disputed Domain Name incorporates the Complainant's IKEA Mark in its entirety, and adds only the geographic qualifier "id." The use of a famous mark in its entirety together with a geographic term in a domain name creates a domain name that is

confusingly similar to the famous mark. See *Playboy Enterprises International Inc. v. Melancia, WIPO Case No. D2006-1106*.

There is no doubt that the Disputed Domain Name < ikea-id.com > completely incorporates the Complainant's "IKEA" trademark which is the distinctive part of the Disputed Domain Name, and such incorporation makes the Disputed Domain Name confusingly similar with the Complainant's trademark.

In conclusion, the Panel finds that the Complainant has satisfied the Paragraph 4(a)(i).

## **B) Rights and Legitimate Interests**

As the owner and/or proprietor of the "IKEA" trademarks, the Complainant has confirmed that it has no prior connection with the Respondent in any way, nor has it authorized the Respondent to use its trademarks in the Disputed Domain Name.

In determining whether the Respondent has any legal right and interest in the Disputed Domain Name, the mere registration of the Disputed Domain Name by the Respondent itself is not sufficient to prove that it owns legal rights and interests thereof; otherwise, "all registrants would have such rights or interests, and no complainant could succeed on a claim of abusive registration" - See: *Adobe Systems Incorporated v. Domain OZ, WIPO Case No.: D2000-0057*.

In the present case, the Respondent failed to provide evidence indicating that it has been commonly known by the Disputed Domain Name, nor has been making a legitimate noncommercial or fair use thereof. On the contrary, the Complainant has pointed out with screenshots of the Disputed Domain Name website that the Disputed Domain Name resolves to a website that contains the "IKEA" trademark. Such a high degree of similarity between the two will lead to confusion as to the identity of the operator of the Disputed Domain Name. It is well established that using a Disputed Domain Name to attract visitors to a website with misleading and potential infringing content does not constitute a "bona fide offering of goods or services".

In conclusion, the Panel finds that the Complainant has satisfied the Paragraph 4(a)(ii).

## **C) Bad Faith**

In determining whether the Respondent has registered or used the Disputed Domain Name in bad faith, paragraph 4(b) of the Policy sets down four (4) factors which the Panel will need to examine. The four (4) factors are as follows:

"Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for

valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Respondent, domiciled in Indonesia, must have been aware of the Complainant's prior rights and interest in the Disputed Domain Name given the Complainant's reputation in the mark “IKEA” internationally and within Indonesia as of the date that the Respondent registered the Disputed Domain Name.

According to the Claimant, the fact that the website features the trade name “IKEA” and related products in relation to a website bearing the Complainant's registered trademarks, makes it clear that the Respondent knew of the Complainant's trademark and registered the Disputed Domain Name in an attempt to attract internet traffic to the website on the mistaken belief that it is associated with the Complainant's business.

No evidence has been provided showing that the Respondent sought the permission of the Claimant to use its mark, nor any evidence showing that the Claimant gave such permission to the respondent.

Given the above findings, the Panel is of the view that the Respondent registered and used the contested domain name in bad faith.

## **6. Decision**

Pursuant to Paragraph 4(i) of the Policy and Article 15 of the Rules, the Panel orders that the disputed domain name < ikea-id.com > be transferred to the Complainant.



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Dr. Shahla F. Ali  
Panelist

Dated: 17 September 2019