

# World Trademark Review Daily

**Ikea scores more UDRP success**  
**International - Hogan Lovells International LLP**

**Cybersquatting**

March 07 2012

Dutch company [Inter Ikea Systems BV](#) has won a case ([Case D2011-1962](#), January 24 2012) filed under the [Uniform Domain Name Dispute Resolution Policy](#) (UDRP) in relation to the domain name 'ikealittle.com', registered on December 8 2010. Interestingly, the complainant filed and won 17 UDRP cases in 2011 alone.

To be successful in a UDRP procedure, a complainant must evidence that:

- the domain name is identical, or confusingly similar, to a trademark or service mark in which the complainant has rights;
- the respondent has no rights or legitimate interests in respect of the domain name; and
- the domain name has been registered and is being used in bad faith.

A marketer of furniture and home furnishings, between 1987 and 2007 the complainant registered trademark rights in the term 'Ikea' in the United States and other jurisdictions in connection with its goods. The complainant submitted that IKEA is a well-known trademark which is recognised worldwide due to its activities through its retailers in numerous countries and its brand popularity, citing over 699 million store visits to its retailers in 2010 and the distribution of nearly 200 million copies of IKEA-branded catalogues to consumers each year.

The domain name pointed towards web pages featuring links to third-party websites, including competitors of the complainant.

Before initiating a UDRP proceeding, the complainant sent a letter to the registrant, an individual based in China, but this letter was returned because the address information as listed in the WHOIS record was incorrect. The complainant filed a complaint with the [World Intellectual Property Organisation](#) on November 9 2011.

As for the first limb of the UDRP, the complainant evidenced that the domain name was identical, or confusingly similar, to its IKEA mark because it combined the complainant's mark with the word 'little', a generic word. On the basis of a [prior UDRP decision](#) relating to the domain names 'kazaa-little.com' and 'kazaalittle.com', the panel determined that the addition of the term 'little' did not affect the fact that the domain name was identical, or confusingly similar, to the complainant's mark. Therefore, it found that the first limb of the UDRP was satisfied.

Despite the confusing similarity, the complainant still had to prove that the respondent had no rights or legitimate interests in the domain name under the second limb. In general, while the overall burden of proof rests with complainants, panels have recognised that this may result in the often impossible task of proving a negative, requiring information that is primarily within the knowledge of the respondent. Therefore, complainants are simply required to make out a *prima facie* case that respondents lack rights or legitimate interests. Once such *prima facie* case is made, it is the respondent who carries the burden of demonstrating rights or legitimate interests in the domain name.

In this case, the complainant made out its case by asserting that the respondent was neither commonly known by the domain name, nor authorised by the complainant to use the complainant's IKEA mark. The complainant provided screen captures of the website at the domain name showing that the website featured links to third-party websites. The complainant alleged that these links were monetised and indicative of illegitimate commercial use of the domain name.

The respondent responded by submitting that it had purchased the domain name to protect a misspelling of 'likealittle'. The respondent further stated that s/he had nothing to do with the content on the website at the domain name, and that the advertisements and links appearing on the domain name were placed by the registrar. The respondent finally stated that s/he was not related to the third-party websites linked to on the website associated with the domain name.

The panel considered that no evidence had been provided by the respondent of rights in 'likealittle' or legitimate interests in 'likealittle' or 'ikealittle'. In addition, the panel noted that there were no provisions in the UDRP protecting the type of defensive domain name registrations referred to by the respondent.

Turning to the last prong of the UDRP, the complainant alleged that the domain name incorporated the notorious IKEA mark and featured sponsored links to websites maintained by the complainant's

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competitors.

Given the recognised fame of the IKEA mark, the panel found that it was implausible that the respondent was unaware of the complainant's trademark rights when registering the domain name. The panel also found that the incorporation of third-party links regarding goods or services competitive with those provided under another party's mark supported a finding of bad faith. In addition, the panel asserted that, by registering the domain name and offering links to third-party goods directly competitive with those of the complainant, the respondent was diverting traffic from the complainant's 'ikea.com' domain name and other domain names owned by the complainant which incorporated the IKEA mark.

Finally, the panel noted that, in accordance with previous UDRP panel decisions, the respondent's defence that s/he was not responsible for the links appearing on the website at the domain name and that these links had been generated by the registrar should not avoid a finding of bad faith. The panel thus concluded that the respondent had registered and was using the domain name in bad faith.

As a result, the panel decided to transfer the domain name.

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