



**Asian Domain Name Dispute Resolution Centre**

**(Kuala Lumpur Office)**

**ADMINISTRATIVE PANEL DECISION**

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**Case No. AIAC/ADNDRC-1349-2024**

**Complainant: KeaWorld Pte Ltd**

**Respondent: Mike Simon**

**Disputed Domain Name: <www.keababieshaven.shop>**

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**1. Parties and the Disputed Domain Name**

The Complainant herein is KeaWorld Pte Ltd, of 25 Ubi Rd 4 #03-04A UBIX, Singapore 408621.

The Respondent herein is Mike Simon. We note that the Complaint has not provided the address for the Respondent in the Complaint as filed.

The disputed domain name is <www.keababieshaven.shop>, which was registered by the Respondent through NameSilo, LLC at 390 NE 191st St STE 8437, Miami, FL 33179, USA.

**2. Procedural History**

The Complaint was filed by the Complainant with the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on 16 September 2024 and the Complainant chose a sole panelist to review this case in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) which was adopted by the ICANN and came into effect on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) became effective on 28 September 2013 and the Supplemental Rules thereof which come into effect on 31 July 2015.

On 18 September 2024, the Centre confirmed the receipt of the Complaint and Annexures, and transmitted by email to NameSilo, LLC (the Registrar of the domain name) a request for registrar verification in connection with the domain name at issue.

On 18 September 2024, the Centre sent the Notification of Commencement of Proceedings to the Respondent and required the Respondent to submit a Response within 20 days (on or prior to 8 October 2024) in accordance with the Rules and Supplemental Rules, and forwarded the Complaint as well. The procedures for this case formally commenced on 18 September 2024.

On 9 October 2024, the Centre confirmed that the Respondent had not filed any formal

Response with the Centre, within the required time limit.

On 12 October 2024, the Centre sent Mr. Matthew Murphy, a Panel Appointment Notice. On the same day, the Panel candidate considered that it was properly constituted and submitted the acceptance notice, as well as a statement of impartiality and independence. On 12 October 2024, the Centre notified both parties and the Panelist Mr. Matthew Murphy by email, that Mr. Matthew Murphy has been appointed the sole panelist for arbitrating this case. The Centre then formally transferred the case to the Panelist.

On 14 October 2024, the Panelist found that the Complainant had not submitted annexes as referred to in the Complaint, such as trademark registration certificates and/or screenshots of trademark registrations from official government registries, which were necessary to substantiate the claims made in the Complaint. As a result, on 15 October 2024, the Panelist issued an Order, requesting the Complainant to submit this evidence by 22 October 2024, with the requirement that the evidence be provided to the Respondent. Additionally, on 15 October 2024, the Panelist ordered the Respondent to file its response to any evidence submitted by the Complainant by 29 October 2024. On 30 October 2024, the Centre confirmed that the Respondent still had not submitted any formal Response with the Centre, within the prescribed time limit. Given the extended deadlines for both parties to submit supplementary evidence and/or responses, along with the time required for the Panelist to review these materials, the Panelist stated in the Order that a decision would be issued on or before 7 November 2024.

### **3. Factual background**

#### *For the Complainant*

The Complainant, KeaWorld Pte Ltd, claims to be the owner of trademark registrations for KeaBabies, KeaBabies & Device, KEADREAMS, DRKEA, KEABABIES in United States.

The Complainant provided the following specific information about its trademark registrations:

1. Trademark Registration No. 6899013 for Class 35, Date of Registration: 15 November 2022, Country of Registration: United States - Class 35: On-line retail store services featuring baby products; retail on-line ordering services featuring baby products also accessible by telephone, facsimile and mail order; operating an on-line shopping site in the field of baby products; on-line wholesale store services featuring baby products; electronic commerce services, namely, providing information about baby products via telecommunication networks for advertising and sales purposes; providing incentive award programs for customers through issuance and processing of loyalty points for on-line purchase of a company's goods and services; online advertising and promotional services; and advertising
2. Trademark Registration No: 6566180 for Class 05, 10, 20, 21, 24, 25, Date of Registration: 23 November 2021, Country of Registration: United States - Class 05: Nursing pads - Class 10: maternity support belts for medical purposes; belly wraps in the nature of supportive foundation garments used to assist in weight loss, reduce post pregnancy swelling and support the midsection after surgery - Class 20: Diaper changing mats; pillows - Class 21: Wooden hairbrushes sold in sets - Class 24: Hooded towels, towels; pillowcases; Baby burp cloths; car seat canopies in the nature of baby blankets that may be used with car seats - Class 25: bandana drool bibs of cloth, silicone bibs

3. Trademark Registration No: 5630666 for class 18, Date of Registration: 18 December 2018, Country of Registration: United States - Class 18: Baby carriers worn on the body Pouch baby carriers
4. Trademark Registration No: 7465727 for class 16, Date of Registration: 6 August 2024 Country of Registration: United States - Class 16: Pregnancy journals in the nature of blank writing journals; Inkless fingerprint kit comprising a finger pad and chemical developer for developing fingerprints without the use of ink; Memory books; Modeling clay kits comprising modeling clay and molds for modeling clays
5. Trademark Registration No: 5542567 for class 35, Date of Registration: 14 August 2018, Country of Registration: United States - Class 35: On-line retail store services featuring baby products; retail on-line ordering services featuring baby products also accessible by telephone, facsimile and mail order; operating an on-line shopping site in the field of baby products; on-line wholesale store services featuring baby products; electronic commerce services, namely, providing information about baby products via telecommunication networks for advertising and sales purposes; providing incentive award programs for customers through issuance and processing of loyalty points for on-line purchase of a company's goods and services; online advertising and promotional services; and advertising
6. Trademark Registration No: 5569826 for class 20, Date of Registration: 25 September 2018, Country of Registration: United States - Class 20: Pillows
7. Trademark Registration No: 5569829 for class 10, Date of Registration: 25 September 2018, Country of Registration: United States - Class 10: Thermometers for medical purposes
8. Trademark Registration No: 6523684 for class 5, 10, 18, 20, 24, 25, Date of Registration: 19 October 2021, Country of Registration: United States - Class 5: nursing pads - Class 10: maternity support belts for medical purposes; belly wraps in the nature of supportive foundation garments used to assist in weight loss, reduce post pregnancy swelling and support the midsection after surgery - Class 18: baby wrap carriers worn on the body; diaper backpacks - Class 20: pillows - Class 24: hooded towels; pillowcases; baby burp cloths; car seat canopies in the nature of baby blankets that may be used with car seats - Class 25: bandana drool bibs of cloth, silicone bibs
9. Trademark Registration No: 6506256 for class 20, 21, Date of Registration: 5 October 2021, Country of Registration: United States - Class 20: Diaper changing mats - Class 21: Wooden hairbrushes sold in sets

*For the Respondent*

The Respondent is Mike Simon, and that person's email is clearmanohgood112@gmail.com. The Respondent did not file any Response or communications with the Centre.

**4. Parties' Contentions**

*Complainant*

- i. The disputed domain name is identical or confusingly similar to the Complainant's

trademark or service mark, which easily causes confusion.

The Complainant claims that it holds the registered trademark No. 6899013, as well as others summarized above.

Based on the copy of the trademark registration certificate provided by the complainant, the registered trademark No. 6899013 consists of the word “KeaBabies,” while the disputed domain name is <www.keababieshaven.shop>.

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

The Complainant claims that the Respondent does not have any rights, licenses, or permission from it to use its trademark or any similar branding in the domain name. In addition, the Complainant did not provide the Centre with additional background information regarding this issue.

- iii. The disputed domain name was registered and is being used in bad faith.

The Complainant claims that the domain name is being used in a manner that could confuse consumers, potentially leading them to believe that the site is affiliated with or endorsed by it.

Apart from the above, the Complainant did not provide the Centre with additional information.

#### *Respondent*

The Respondent, Mike Simon, did not file any Response, with the Centre.

## **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 must be 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 submitted trademark registration information (including copies of trademark registration certificates) for its KeaBabies, KeaBabies & Device, KEADREAMS, DRKEA, KEABABIES trademarks, which have been registered in the United States.

This evidence has proved that it is entitled to the ownership of the KeaBabies, KeaBabies & Device and KEABABIES trademarks. Obviously, the main part of the disputed domain name <www.keababieshaven.shop>, is “keababieshaven”, which completely incorporates the Complainant’s KeaBabies, KeaBabies & Device and KEABABIES trademarks. The

discussion from the following decision is of relevance on this issue - “The fact that a trademark is incorporated in its entirety in a domain name is a solid indication of, but does not ipso facto mean, that the domain name is confusingly similar to the trademark. The similarity of the trademark and the domain name depends on many factors, including the relative distinctiveness of the trademark and the non-trademark elements of the domain name, and whether the non-trademark elements detract from or contradict the function of the trademark as an indication of origin” - see: *Pfizer Inc v. The Magic Islands*, WIPO Case No. D2003-0870 where the disputed domain name <viagraconfidential.com> in this case completely contained the complainant’s trademark VIAGRA.

In the present case, from general reading, the Panelist has learned that KeaBabies is a Singapore-based brand founded in 2017 by Jane Neo and Ivan Ong, offering a variety of baby and maternity products, including baby wraps, carriers, diaper bags, nursing pillows, and keepsake kits. The brand KeaBabies draws inspiration from the Kea, the world’s only alpine parrot, known for its intelligence and adaptability. The brand aims to instill the same spirit of curiosity and resilience in families through their products. KeaBabies has grown significantly by leveraging platforms like Amazon, Walmart, and Target, making their products more accessible to customers in markets such as the USA and Canada. Besides, KeaBabies maintains a vibrant presence on platforms like Facebook, Instagram, and Pinterest, using social media not just for product promotion but also to share parenting tips and engage with their community, which have driven their rapid expansion in international markets like the USA and Canada. By 2023, KeaBabies had served over 6.5 million customers globally.

It is noted that the disputed domain name <www.keababieshaven.shop> was Respondent was registered by the Respondent on 12 April 2024, and points to a website that sells maternal and infant products such as baby carriers, swaddles, and postpartum belts.

In view of the above, the Panelist considers that the disputed domain name is confusingly similar to the KeaBabies, KeaBabies & Device and KEABABIES trademarks for the following reasons: 1) the KeaBabies, KeaBabies & Device and KEABABIES trademarks have obtained a very high level of distinctiveness and reputation among the relevant public, due to years of prior use and wide registration; 2) “haven” is a generic term, which is generally descriptive and lacks inherent distinctiveness; and 3) generally, the generic term “haven” is commonly used to evoke comfort, refuge, or safety, particularly in industries like baby products and parenting services. This makes it less distinctive and more suggestive of the brand offerings’ function rather than marking a unique or separate origin. Thus, the Panelist considers that the addition of “haven” does not decrease the similarity between the main distinctive part of the disputed domain name and the KeaBabies, KeaBabies & Device and KEABABIES trademarks. The discussion from the following decision is of relevance on this issue – “the addition of that generic term after complainant’s mark in does not distinguish or differentiate the domain name from complainant’s mark – instead, it reinforces the trademark function of complainant’s mark as part of the domain name” - see *Anton/Bauer, Inc. vs. eBattery Inc.*, WIPO Case No. D2008-0997 where in this case, the Respondent registered disputed domain name by adding “battery” after the Complainant’s registered trademarks.

As to the gTLD “.shop” in the disputed domain name, it should be ignored when it comes to deciding the issue of confusingly similarity. Based on numerous prior UDRP decisions, merely adding a gTLD such as “.com”, “.shop” to the Complainant’s trademark is insufficient to effectively distinguish the disputed domain name from the Complainant’s trademark and the commercial identity it embodies as a whole. As per the discussion “it is well-established that the ‘.com’ extension should be disregarded for determining confusing similarity” in *Rohde &*

*Schwarz GmbH & Co. HG v. Pertshire Marketing, Ltd.*, WIPO Case No. D2006-0762 (regarding the disputed domain names <rohde-schwarz.com> and <rohde-shwarz.com>); not only that, the disputed domain name carries the suffix “.shop”, which denotes a store. Given that the Complainant primarily sells its products through an online store, the Panelist holds that, in this case, the “.shop” suffix not only fails to distinguish the disputed domain name from the Complainant’s trademarks but may also exacerbate the likelihood of confusion between them. The discussion from the following decision is of relevance on this issue – “As the Complainant operates a store, the Panelist considers that, in this case, the “.shop” suffix not only fails to distinguish the disputed domain name from the complainant’s trademark but may also increase the likelihood of confusion between them.” - see: *Carrefour v. shen yang cheng da dian re ke ji you xian gong si*, WIPO Case No. D2017-0827. Thus, it is found by the Panelist that the disputed domain name and the Complainant’s KeaBabies, KeaBabies & Device and KEABABIES trademarks possess similarity that is sufficient to cause confusion.

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

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

Upon comprehensively considering the circumstances of the case, the Panelist considers that the Respondent does not have legal rights and interests in the disputed domain name on the grounds that:

- 1) The Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names and has expressed that it has not authorized nor permitted the Respondent in any way, to register domain names using the KeaBabies, KeaBabies & Device and KEABABIES trademarks, nor use its KeaBabies, KeaBabies & Device and KEABABIES trademarks in general.
- 2) There is no evidence to suggest that the Respondent, named as “Mike Simon”, is commonly known by the disputed domain name, such that the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name as referred to in Paragraph 4(c)(ii) of the Policy. The following passage from a prior case is applicable – “a respondent (or his/her organization or business) must have been commonly known by the at-issue domain at the time of registration.” – see: *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. D2008-0642 (regarding the disputed domain name <pronaturalmuscle.com>).
- 3) It is known that the disputed domain name <www.keababieshaven.shop> owned by the Respondent points to a website that sells keababies branded baby carriers, swaddles, and postpartum belts, not originating from the Complainant. Therefore, the Respondent’s use of the domain name does not constitute legitimate non-commercial, educational, or fair use, but it involves use for profit. The discussion from the following decision is of relevance on this issue – “There is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain names without intent for commercial gain. The Respondent is instead misleading and diverting PFIZER’s customers to its affiliated pharmaceutical sales site, most of the products offered on which are sold by PFIZER’s direct competitors, thereby creating the impression that Respondent’s domain names, the affiliated on-line pharmacy and the products thereon are in some way affiliated with, or approved or sponsored by, PFIZER” - see: *Pfizer Inc. v. jg a/k/a Josh Green*, WIPO Case No. D2004-0784.

- 4) The Respondent had the opportunity to counter the Complainant's assertions but the Respondent did not provide any Response to the Complaint. As a result, the Panelist is compelled to determine that the Complainant's claims are sufficient to establish prima facie evidence indicating that the Respondent lacks any legitimate rights or interests in the domain name. The discussion from the following decision is of relevance on this issue – "The Respondent might have rebutted all the Complainant's arguments but failed to do so and thus, the Panel must conclude that the Complainant's allegations are sufficient to establish a prima facie evidence of the Respondent's lack of rights or legitimate interests in respect of the domain name <deagostini.tv>" - see: *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. DTV2002-0005.

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

### **C) Bad Faith**

The Panelist understands that the Complainant was founded in 2017 by Jane Neo and Ivan Ong. The Complainant is a Singaporean enterprise that specializes in a wide range of infant and maternity products, including infant wraps, carriers, diaper bags, nursing pillows, and keepsake kits. The Complainant, KeaBabies, maintains an active presence on social media platforms like Facebook, Instagram, and Pinterest, not only promoting their products but also fostering a sense of community through parenting tips and engagement. By 2023, KeaBabies appears to have reached over 6.5 million customers worldwide.

Upon comprehensively considering the following circumstances, it is reasonable for the Panelist to infer that the Respondent ought to have known of the Complainant and its KeaBabies, KeaBabies & Device and KEABABIES trademarks when registering the disputed domain name on 12 April 2024, and that such registration was made in bad faith: 1) the fame of the Complainant's KeaBabies, KeaBabies & Device and KEABABIES trademarks; 2) the similarity between the disputed domain name and the Complainant's trademarks; 3) the similarity between the disputed domain name and the Complainant's main domain name "keababies.com"; 4) the absence of any legal or factual relationship or connection between the Respondent, the disputed domain name, the KeaBabies, KeaBabies & Device and KEABABIES trademarks and/or the Complainant's business, nor any justification for the registration or use of the disputed domain name by the Respondent.

With respect to the use of the disputed domain name, the Panelist has noticed that the disputed domain name points to a website that sells KeaBabies branded maternal and infant products such as baby carriers, swaddles, and postpartum belts. Moreover, its website is very similar to the layout of the Complainant's website. The Panelist has concluded that the Respondent registered a domain name incorporating the Complainant's registered trademark and used the website linked to the domain name, to sell identical or similar products under the same brand. This conduct is not coincidental but reflects a clear commercial intent in bad faith, as the Respondent did not have the consent or permission of the Complainant to engage in these activities. It does not constitute legitimate business activity but instead exploits consumers' trust in the complainant's brand, intentionally misleading them into believing that the website is authorized or affiliated with the Complainant. As a result, consumers are led to assume that they are transacting directly with the Complainant, or an affiliate of the Complainant, allowing the Respondent to gain unjustified benefits. The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a

respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location. The discussion from the following decision is of relevance on the issue of these facts constituting bad faith – *Philip Morris Products S.A. v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Liu Xinke / IQOSPOST/Japan Tokyo Trading Pty Limited*, WIPO Case No. D2021-2767 (regarding the disputed domain name <heatsshop.com>, <iqosale.com>, and <iqosales.com>), “In this case, both the registration and use of the disputed domain names in bad faith can be found pursuant to Policy, paragraph 4(b)(iv) in view of the reproduction of the IQOS and HEETS trademarks or a confusingly similar approximation thereof in the disputed domain names, as well as the online shop that is available at the websites relating to the disputed domain names, together with the unauthorized reproduction of the Complainant's official product images and inaccurate disclaimer, which create a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement thereof.”

In conclusion, the Panelist finds that the Complainant has satisfied Paragraph 4(a)(iii) of the Policy.

## 6. Decision

The Complainant has requested that this Panel cancels the disputed domain name, rather than transfer it. Pursuant to Paragraph 4(a) of the Policy and Article 15 of the Rules, the Panelist orders that the disputed domain name <www.keababieshaven.shop> be cancelled.



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Matthew Murphy  
Panelist

Dated: 31 October 2024