

ADMINISTRATIVE PANEL DECISION

The Kraft Heinz Company v. thung wausgng
Case No. D2024-1862

1. The Parties

Complainant is The Kraft Heinz Company, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is thung wausgng, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <kraftheinz.com> (“the Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 2, 2024. On May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 3, 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, Privacy service provided by Withheld for Privacy ehf”) and contact information in the Complaint. The Center sent an email communication to Complainant on May 6, 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 on May 9, 2024.

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 of the Complaint, and the proceedings commenced on May 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2024.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on June 13, 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

Complainant is an American multinational food company formed by the 2015 merger of Kraft Foods Group, Inc. ("Kraft") and H.J. Heinz Company ("Heinz"). Complainant owns the KRAFT, HEINZ and KRAFT HEINZ trademarks across different jurisdictions including:

| TRADEMARK REGISTRATION | JURISDICTION | REGISTRATION NUMBER | REGISTRATION DATE | INTERNATIONAL ES |
|------------------------|----------------|---------------------|-------------------|----------------------|
| KRAFT | United States | 670330 | November 25, 1958 | 1, 5, 29, 30, 31, 32 |
| KRAFT | European Union | 000148403 | February 1, 1999 | 29, 30, 32 |
| HEINZ | United States | 0062182 | April 23, 1907 | 1, 5, 29, 30, 31, 32 |
| HEINZ | European Union | 000178467 | February 1, 1999 | 5, 29, 30, 31, 32 |
| KRAFT HEINZ | China | 47340567 | February 28, 2021 | 29 |
| KRAFT HEINZ | China | 47358664 | February 28, 2021 | 30 |

Complainant has operated from its main websites "www.kraftheinz.com" and "www.kraftheinzcompany.com" since March 2015.

The Disputed Domain Name was registered on August 6, 2023 and does not resolve to an active website. The Respondent has also configured mail exchange ("MX") records.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The granting of registrations by United States Patent and Trademark Office ("USPTO"), European Union ("EUIPO") and/or China National Intellectual Property Administration ("CNIPA") to Complainant for the KRAFT, HEINZ and KRAFT HEINZ trademarks is prima facie evidence of the validity of the terms "kraft", "heinz" and "kraft heinz" as trademarks, of Complainant's ownership of these trademarks, and of Complainant's exclusive rights to use the KRAFT, HEINZ and KRAFT HEINZ trademarks in commerce.

The Disputed Domain Name captures and combines Complainant's KRAFT and HEINZ and KRAFT HEINZ trademarks with "heinz" being misspelled by adding the letter "r". As such, the resulting Disputed Domain Name must be considered confusingly similar to those trademarks.

Respondent is not sponsored by or affiliated with Complainant in any way. Nor has Complainant given Respondent permission, license or authorization to use Complainant's trademarks in any manner, including in domain names. Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests.

Respondent registered the Disputed Domain Name on August 6, 2023, which is significantly after Complainant's registrations of its KRAFT, HEINZ and KRAFT HEINZ trademarks with the USPTO, EUIPO and/or CNIPA, Complainant's first use in commerce of the KRAFT trademark in 1927 and HEINZ trademark in 1869, and Complainant's registration of its domain name in March 2015. Thus, by the time Respondent registered the Disputed Domain Name, Complainant had already established goodwill and reputation on the

KRAFT, HEINZ and KRAFT HEINZ trademarks. As a result, the Disputed Domain Name, which is a typosquatted version of Complainant's trademarks, effectively impersonates or suggests sponsorship or endorsement by Complainant.

Given the Disputed Domain Name's composition, it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brands at the time the Disputed Domain Name was registered.

The Disputed Domain Name can only be taken as intending to cause confusion among Internet users as to the source of the Disputed Domain Name, and thus, the Disputed Domain Name must be considered as having been registered and used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant has demonstrated it owns long-standing registered and common law trademark rights in the KRAFT, HEINZ, and KARFT HEINZ marks. The Disputed Domain Name incorporates a misspelling of the KRAFT HEINZ mark, namely with the addition of the letter "r" into HEINZ which does not prevent a finding of confusing similarity between the marks and the Disputed Domain Name. See sections 1.7 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Disputed Domain Name is confusingly similar to marks in which Complainant has rights.

B. Rights or Legitimate Interests

Complainant has presented a prima facie case that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that Respondent obtained the Disputed Domain Name years after Complainant had begun using its globally famous KRAFT, HEINZ, and KRAFT HEINZ marks indicates that Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a prima facie case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Furthermore, the nature of the Disputed Domain Name, comprising Complainant's marks and with misspellings of one of its mark, indicates an awareness of Complainant and its marks and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests

In the absence of any evidence rebutting Complainant's prima facie case indicating Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered many years after Complainant first registered and used its globally famous KRAFT, HEINZ, and KRAFT HEINZ marks. Considering the evidence on the record provided by Complainant with respect to the extent of use of its globally famous KRAFT, HEINZ, and KRAFT

HEINZ marks, the typosquatting of Complainant's mark in the Disputed Domain Name, combined with the absence of any evidence provided by Respondent to the contrary, it is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, Respondent undoubtedly knew of Complainant's its globally famous KRAFT, HEINZ, and KRAFT HEINZ marks, and knew that it had no rights or legitimate interests in the Disputed Domain Name. Prior UDRP panels have held that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

There is no benign reason for Respondent to have registered the Disputed Domain Name.

The Panel finds that the only plausible basis for registering and passively holding the Disputed Domain Name is for illegitimate and bad faith purposes. In view of section 3.3 of the [WIPO Overview 3.0](#), given the above considerations and especially the nature of the Disputed Domain Name consisting of a misspelling of Complainant's marks, the Panel finds that the totality of the circumstances supports a finding of bad faith, regardless of the current inactive state of the Disputed Domain Name.

Furthermore, Complainant provided evidence on record that Respondent has configured MX records for the Disputed Domain Name. The presence of MX records gives rise to the possibility that Respondent intended, or intends, to use the Disputed Domain Name to send fraudulent emails as part of a phishing scheme and as such, reinforces the Panel's view of the Respondent's bad faith.

Given these circumstances, the Panel finds the requirement of paragraph 4(a)(iii) of the Policy that the Disputed Domain Name was registered and is being used in bad faith by the Respondent is met.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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 <kraftheinz.com> be transferred to Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: June 27, 2024