

ADMINISTRATIVE PANEL DECISION

Krispy Kreme Doughnut Corporation, HDN Development Corporation v.
Privacy Service Provided by Withheld for Privacy EHF / Name Redacted
Case No. D2022-3023

1. The Parties

Complainants are Krispy Kreme Doughnut Corporation and HDN Development Corporation, United States of America (“United States”), both represented by Kilpatrick Townsend & Stockton LLP, United States.

Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <krispykremeincfranchise.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainants on August 22, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainants filed an amended Complaint on August 22, 2022.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 Respondent of the Complaint, and the proceedings commenced on August 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 21, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on September 26, 2022. 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

Complainants Krispy Kreme Doughnut Corporation and HDN Development Corporation are affiliated companies (hereinafter, collectively with their corporate affiliates “Complainant”). For decades prior to the registration of the disputed domain name, Complainant has offered doughnuts and related treats under the KRISPY KREME mark. Complainant owns numerous registrations for the KRISPY KREME mark. These include, among others, United States Registration Nos. 0938245 (registered July 18, 1972) and 0967684 (registered September 4, 1973), as well as United States Registration No. 5826766 (registered August 6, 2019) for a composite word and design (“KRISPY KREME DOUGHNUTS logo”).

The disputed domain name was registered on August 5, 2022. Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant. The website, and emails associated therewith, include references to the KRISPY KREME mark and KRISPY KREME DOUGHNUTS logo and include information purporting to inform consumers about franchise opportunities with Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties’ Contentions

A. Complainant

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant’s trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it has established global “renown” for its “well-known” KRISPY KREME mark, with a marketing budget of over USD 39 million and revenues of USD 1,384 billion in 2021. Complainant asserts that it owns the domain name <krispykreme.com>, which it uses to connect with consumers, as well as to offer information to prospective partners regarding franchise opportunities.

Complainant contends that Respondent has incorporated the KRISPY KREME mark into the disputed domain name, and merely added the dictionary terms “inc” and “franchise”. Complainant asserts that Respondent has no rights or legitimate interest in the domain name registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in setting up a website and an associated email address meant to impersonate Complainant and to confuse prospective partners seeking to franchise the use of

Complainant's highly regarded KRISPY KREME mark, when Respondent clearly knew of Complainant's rights. In this regard, Complainant asserts that Respondent has used Complainant's mark in an attempt to obtain sensitive personal and financial information from prospective business partners of Complainant for Respondent's own commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name <krispykreameincfranchise.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates Complainant's registered KRISPY KREME mark, with the addition of the dictionary terms "inc" and "franchise".

Numerous UDRP panels have agreed that supplementing or modifying a trademark with generic or descriptive words does not make a domain name any less "identical or confusingly similar" for purposes of satisfying this first prong of paragraph 4(a)(i) of the Policy. See, for example, *Inter IKEA v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Microsoft Corporation v. StepWeb*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services;" (ii) demonstration that Respondent has been "commonly known by the domain name;" or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

Respondent did not submit a reply to Complainant's contentions, and Respondent did not allege or otherwise provide any information that would support a finding that Respondent has rights or legitimate interest in the disputed domain name. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to

[respondent's] 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 [respondent's] website or location or of a product or service on [the] web site or location." As noted in Section 4 of this Panel's decision, Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant. The website, and emails associated therewith, refer to Complainant's KRISPY KREME mark and KRISPY KREME DOUGHNUTS logo, and invite prospective partners to click links and to provide Respondent with sensitive personal and financial information. Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. See also *Krispy Kreme Doughnut Corporation, HDN Development Corporation*, WIPO Case No. [D2022-2376](#) (transferring <krispykremefranchising.com>).

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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 <krispykreameincfranchise.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: October 3, 2022