

## **ADMINISTRATIVE PANEL DECISION**

The Kraft Heinz Company v. joe brains  
Case No. D2024-1861

### **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 joe brains, 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 Complainant to submit an amendment to the Complaint. 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 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. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 5, 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 C CLASS(ES)
KRAFT	United States	0670330	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 at "www.kraftheinz.com" and "www.kraftheinzcompany.com" since October 2015 and March 2015, respectively.

The Disputed Domain Name was registered on July 4, 2023 and it used to resolve to a parked page displaying Pay-über-Click (PPC) links.

#### 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 Intellectual Property Office ("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 substituting the letter "i" for the letter "l". 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 July 4, 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 Respondent would have been unaware of" Complainant's brands at the time the Disputed Domain Name was registered.

Respondent is using the Disputed Domain Name to redirect Internet users to a website featuring links to third-party websites. Presumably, Respondent receives PPC fees from the linked websites that are listed at the Disputed Domain Name's website.

Respondent is likely to use or intends to use the email addresses hosted by the Disputed Domain Name taking the general form, to confuse Internet users into believing they are dealing with Complainant when they are not. Respondent's likely intent to use email from the said Disputed Domain Name to pass itself off as Complainant is neither a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

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 KRAFT HEINZ marks. The Disputed Domain Name incorporates a misspelling of the KRAFT HEINZ marks, namely with the substitution of the letter "i" for the letter "l" in the mark 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 trademarks 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.

Further, the use of the Disputed Domain Name by Respondent is clearly in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a disputed domain name to intentionally attempt 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. Complainant has submitted evidence that Respondent has used the Disputed Domain Name in order to direct Internet users to a parked website with PPC links for which the Respondent might have received some commercial gain. Given the fame of the globally famous KRAFT, HEINZ, and KRAFT HEINZ marks, the obvious inference is that Respondent hoped to mislead Internet users to visit the website at the Disputed Domain Name trading on Complainant's trademark and reputation in order to obtain PPC revenue. As such the Panel finds that the Disputed Domain Name is being used in bad faith pursuant to 4(b)(iv) of the Policy.

In the absence of any evidence or explanation from Respondent, the Panel finds that the only plausible basis for registering and using the Disputed Domain Name has been for illegitimate and bad faith purposes.

Accordingly, the Panel finds that 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: July 1, 2024