

## **ADMINISTRATIVE PANEL DECISION**

The Kraft Heinz Company v. Domain Administrator, Sugarcane Internet Nigeria Limited  
Case No. D2024-1863

### **1. The Parties**

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

The Respondent is Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria.

### **2. The Domain Name and Registrar**

The disputed domain name <kraftheins.com> is registered with Cosmotown, 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 6, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the 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 Christiane Féral-Schuhl as the sole panelist in this matter on June 6, 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**

The Complainant is an American multinational food company formed by the 2015 merger of Kraft Foods Group, Inc. and H.J. Heinz Company.

The Complainant, through its subsidiaries, owns several registered trademarks incorporating the terms “Kraft”, “Heinz”, individually or together (the “KRAFT HEINZ Trademarks”):

- the American word trademark KRAFT No. 670330, registered on 25 November 1958, for products and services in class 46 and duly renewed;
- the European word trademark KRAFT No. 000148403, registered on 1 February 1999, for products and services in classes 29, 30 and 32 and duly renewed;
- the American word trademark HEINZ No. 62182, registered on 23 April 1907, for products and services in class 46 and duly renewed;
- the European word trademark HEINZ No. 000178467, registered on 1 February 1999, for products and services in classes 5, 29, 30, 31 and 32 and duly renewed;
- the Chinese word trademark KRAFT HEINZ No. 47340567, registered on 28 February 2021, for products and services in class 29;
- the Chinese word trademark KRAFT HEINZ No. 47358664, registered on 28 February 2021, for products and services in class 30.

The Complainant is also the owner of several domain names incorporating the KRAFT HEINZ Trademarks, as <kraftheinz.com> and <kraftheinzcompany.com> both registered in March 2015.

The disputed domain name was registered on February 2, 2023, and resolved to a website featuring pay-per-click (“PPC”) links to third-party websites, which directly referenced the Complainant. At the time of the decision, the disputed domain name resolves to a blank page and lacks content.

#### **5. Parties’ Contentions**

##### **A. Complainant**

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to trademarks in which it has rights. The Complainant submits that, through its subsidiaries, it owns several KRAFT HEINZ Trademarks and domain names incorporating the KRAFT HEINZ Trademarks. Furthermore, the Complainant argues that the disputed domain name reproduces the KRAFT HEINZ Trademarks replacing the letter “z” with the letter “s”. The Complainant asserts that the Respondent has purposefully misspelled the Complainant’s trademarks, where the letter “z” is phonetically similar to the letter “s” in terms of pronunciation. The Complainant adds that this is an obvious example of typosquatting.

Then, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant explains that the Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant adds that it has not given the Respondent any permission, license or authorization to use the KRAFT HEINZ Trademarks in any way, including in domain names. The Complainant also indicates that the Respondent is not commonly known by the disputed domain name.

Finally, the Complainant asserts that the disputed domain name was registered and is used in bad faith by the Respondent. The Complainant argues that the KRAFT HEINZ Trademarks are known internationally and that by registering a domain name that misspells the Complainant's trademarks, the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brands and business. The Complainant also indicates that, by creating this likelihood of confusion between the Complainant's trademarks and the disputed domain name, leading to misperceptions as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, the Respondent has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainant's trademarks in order to increase traffic to the disputed domain name's website which comprises PPC links. The Complainant also submits that the disputed domain name currently resolves to a blank page and is not being used. In addition, the Complainant indicates that the Respondent has previously been involved in multiple UDRP cases, which constitutes evidence of a pattern of cybersquatting.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Moreover, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

Regarding the disputed domain name, the Panel finds that it incorporates the KRAFT HEINZ Trademarks in their entirety with a misspelling consisting of replacing the letter "z" with the letter "s". This construction of the disputed domain name does not prevent a finding of confusing similarity since the KRAFT HEINZ Trademarks remain recognizable.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, it appears that the Respondent has not received any authorization to use the KRAFT HEINZ Trademarks in any manner, including for the registration of the disputed domain name. Moreover, the Panel finds that the Respondent is not commonly known by the disputed domain name or that the Respondent has the intent to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name resolves to a parked page comprising PPC links, including links related to the Complainant. Such use does not represent a bona fide offering where the links compete with or capitalize on the reputation and goodwill of the Complainant’s trademark. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the KRAFT HEINZ Trademarks and that the Respondent has engaged in a pattern of trademark-abusive domain name registrations. Regarding the distinctiveness and reputation of these trademarks, the Panel considers that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s trademarks and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be legitimate.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As the PPC links resolved to websites competing with the Complainant’s business, there is evidence of an intent to capitalize on the goodwill of the Complainant’s trademark. The Panel therefore notes that the disputed domain name is being used in bad faith since the Respondent attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark as to the disputed domain name’s source, sponsorship, affiliation, or endorsement; an activity clearly detrimental to the Complainant’s business under paragraph 4(b)(iv) of the Policy.

Furthermore, Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds that the current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this

proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademarks, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <kraftheins.com> be transferred to the Complainant.

*/Christiane Féral-Schuhl/*

**Christiane Féral-Schuhl**

Sole Panelist

Date: June 20, 2024