

ADMINISTRATIVE PANEL DECISION

The Kraft Heinz Company v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2024-1864

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 Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <kraftheinze.com> is registered with GoDaddy.com, LLC (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 (Registration Private/Domains By Proxy, LLC) 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 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 5, 2024.

The Center appointed Dietrich Beier as the sole panelist in this matter on June 12, 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. ("Kraft") and H.J. Heinz Company ("Heinz"). Through Complainant's subsidiaries, which includes Kraft Foods Group Brands LLC, H.J. Heinz Foods UK Limited, H. J. Heinz US Brands LLC and H.J. Heinz Company Brands LLC, Complainant owns the KRAFT, HEINZ and KRAFT HEINZ trademarks across different jurisdictions. The Kraft companies date back to 1903, The Heinz companies even into the 19th century.

The Complainant is the proprietor of several registrations for "KRAFT" (e.g., EUTM 148403, registered on April 1, 1996 in classes 29,30,32 and 46) and "HEINZ" (e.g., EUTM 178467, registered on February 1, 1999 in classes 5,29,30,31,32) as well as "KRAFT HEINZ" (CN 47340567, registered on February 28, 2021 in class 29, CN 47358664, registered on February 28, 2021 in class 30), all being in effect.

The disputed domain name was registered on May 22, 2023.

Initially, the pertinent Whois information identified the Registrant as "Registration Private/Domains By Proxy, LLC".

The disputed domain name was redirected to a website featuring links to third-party websites. Currently, the disputed domain name leads to an inactive website.

5. Parties' Contentions

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 reproduces in its entirety the mark "KRAFT HEINZ" as protected by the Complainant's trademarks, adding the letter "e" at the end.

The Complainant has not authorized the use of its trademarks or terms similar thereto in the disputed domain name in any manner or form. Complainant has also not found that the Respondent is commonly known under this name.

The Complainant and the Complainant's trademarks are widely used and famous so that it is inconceivable that the Respondent ignored the Complainant or its earlier rights.

The brands KRAFT, HEINZ and nowadays KRAFT HEINZ is amongst the largest food companies in the world.

The Complainant and its trademarks being well known have been established in several Administrative Panel's decisions, among them *Kraft Heinz Foods Company v. Dion Dudley, Grownmark*, WIPO Case No. [D2019-0979](#) and *Kraft Heinz Foods Company v. Steve Co, Stave Co Ltd*, WIPO Case No. [D2018-1343](#).

The disputed domain name has been setup with an email enabling MX records. With that email addresses may be hosted by the disputed domain name taking the general form <name@kraftheinze.com>, to confuse Internet users into believing they are dealing with Complainant when they are not.

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 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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced 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. The addition of a letter "e" at the end does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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. This is in particular the case since the Complainant did not grant any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name "KRAFT HEINZ" nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services.

C. Registered and Used in Bad Faith

Due to the long existence and intensive use of Complainant's marks being widely known, the Respondent must have been well aware of the Complainant and its trademarks when registering the domain name. The Complainant had not authorised the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

The circumstances of this case furthermore indicate that the Respondent registered and uses the disputed domain name with links to third party websites as well as the typo squatting by adding the letter "e" at the end primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential

website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with 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 <kraftheinze.com> be transferred to the Complainant.

/Dietrich Beier/

Dietrich Beier

Sole Panelist

Date: June 26, 2024