

ADMINISTRATIVE PANEL DECISION

The Kraft Heinz Company v. Laura Santoro
Case No. D2024-1865

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 Laura Santoro, Italy.

2. The Domain Name and Registrar

The disputed domain name <krafthenz.com> is registered with Metaregistrar BV (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 (REDACTED FOR PRIVACY NL) 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 Alistair Payne as the sole panelist in this matter on June 11, 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 a publicly listed company formed by the merger of Kraft Foods Group, Inc. and H.J. Heinz Company in 2015. It is now one of the largest food and beverage companies in the world and while headquartered in the United States of America it operates globally and in 2023 had reported net sales of approximately USD 27 billion. The Complainant owns numerous trade mark registrations globally for KRAFT and for HEINZ separately and together, including in particular, European Union Trademark (“EUTM”) 000148403 registered on February 1, 1999 for KRAFT and EUTM 000178467 for HEINZ registered on February 1, 1999 and also Chinese trade mark registration 47340567 for KRAFT HEINZ registered on February 28, 2021. The Complainant has a strong brand presence online and has operated from its main websites at <kraftheinz.com> and <kraftheinzcompany.com> since October 2015 and March 2015, respectively.

The disputed domain name was registered on December 17, 2023 and resolves to a placekeeper page hosted by Hostinger.

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 incorporates the Complainant’s KRAFT and HEINZ trade marks as well as its KRAFT HEINZ trade mark with the “heinz” being misspelled as a consequence of the removal of the letter “i”. It says that the resulting disputed domain name must therefore be considered confusingly similar to its trade mark registrations.

The Complainant notes that its trade mark registrations predate the disputed domain name by many years and that by the date of registration of the disputed domain name the Complainant’s marks enjoyed an established goodwill. It submits that the disputed domain name is a typosquatted version of the Complainant’s trade marks which effectively impersonates or suggests sponsorship or endorsement by Complainant when this is not the case. The Complainant confirms that it has not given the Respondent permission, licence or authorisation to use the Complainant’s trade marks in any manner, including in domain names. The Complainant also submits that there is no evidence that the Respondent is commonly known by the disputed domain name.

At present, the Respondent is using the disputed domain name to direct internet users to a website that resolves to a parking page and lacks content. It says that the Respondent has not made any attempt to make a legitimate use of the disputed domain name which evinces a lack of rights or legitimate interests in it.

As far as registration in bad faith is concerned, the Complainant notes that its registered trade marks are known internationally and had developed an established reputation well before the registration of the disputed domain name. It says that considering 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 date of registration of the disputed domain name.

The Complainant further says that the disputed domain name is a purposeful misspelling of the Complainant’s trade marks and of its domain name and that the Respondent is attempting to capitalize on

typing errors committed by the Complainant's customers in trying to locate the Complainant on the internet. In other words, says the Complainant, the disputed domain name is a typosquatted version of the Complainant's trade marks which has intentionally been designed to closely mimic the Complainant's trade marks and primary domain name and that this amounts to evidence of bad faith.

The Complainant notes that the disputed domain name currently resolves to a parking page and is not being used and is effectively being held passively. It says that in this case, the disputed domain name is confusingly similar to the Complainant's trade marks, that the Respondent has made no use of the disputed domain name and that these factors should be duly considered in assessing bad faith registration and use.

It also contends that the disputed domain name must be considered as having been registered and used in bad faith under paragraph 4(b)(iv) of the Policy because the disputed domain name is a typosquatted version of Complainant's trade marks, there is no plausible good-faith reason or logic for the Respondent to have registered the disputed domain name and registration is simply indicative of an intention to hold the disputed domain name for some future active use in a way which would be competitive with or otherwise detrimental to Complainant.

Finally, the Complainant notes that the Respondent has ignored the Complainant's attempts to resolve this dispute outside of this administrative proceeding. The Complainant's representative sent a cease-and-desist letter to the Respondent via the contact portal on the Whois but Respondent failed to respond, which it says is also indicative of bad faith.

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 that the registered marks KRAFT, HEINZ and KRAFT HEINZ are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to each of these marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Complainant has asserted that its trade mark registrations predate the disputed domain name by many years and that by the date of registration of the disputed domain name the Complainant's marks enjoyed an established goodwill. It has submitted that the disputed domain name is a typosquatted version of the Complainant's trade marks which effectively impersonates or suggests sponsorship or endorsement by Complainant when this is not the case. The Complainant has confirmed that it has not given the Respondent permission, licence or authorisation to use the Complainant's trade marks in any manner, including in domain names. The Complainant has also submitted that there is no evidence that the Respondent is commonly known by the disputed domain name and that the Respondent is using the disputed domain name to direct internet users to a website that resolves to a parking page and lacks content. It has also asserted that the Respondent has not made any attempt to make a legitimate use of the disputed domain name which it says is indicative of a lack of rights or legitimate interests.

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.

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 Complainant's registered trade marks are known internationally and enjoyed an established reputation well before the registration of the disputed domain name. The disputed domain name is obviously a misspelling of the Complainant's distinctive and very well reputed KRAFT HEINZ trade mark and of its <kraftheinz.com> domain name which was calculated to confuse Internet users. This amounts to a straightforward case of typosquatting and the Panel agrees with the Complainant that 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 date of registration of the disputed domain name.

Panels have found that the non-use of a domain name including for a holding page as in this case would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the 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 that the Complainant's KRAFT, HEINZ and KRAFT HEINZ marks are distinctive and highly reputed, the Respondent has failed to provide any evidence of actual or contemplated good faith. Finally, and as noted earlier, the Panel does not consider that there is any likely plausible explanation or excuse for the Respondent's registration or use of the disputed domain name and therefore 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.

This case amounts a plain typosquatting of the Complainant's well reputed registered trade marks and 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 <krafthenz.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: June 24 , 2024