

ADMINISTRATIVE PANEL DECISION

The Kraft Heinz Company v. Vladimir Veselovskiy
Case No. D2025-0020

1. The Parties

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

The Respondent is Vladimir Veselovskiy, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <thesurejell.com> (the "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 January 3, 2025. On January 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 6, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 the Complainant on January 7, 2025, 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 January 8, 2025.

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 January 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 31, 2025.

The Center appointed Nicholas Smith as the sole panelist in this matter on February 4, 2025. 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 food company that since at least 1934 (both directly and through its corporate predecessors) has offered jams and jellies under the trademark SURE-JELL (the "SURE-JELL Mark"). The Complainant promotes its products through various means including from its website at "www.kraftheinz.com/sure-jell".

The Complainant's subsidiary, Kraft Foods Group Brands LLC, has held a trademark registration for the SURE-JELL Mark in the United States since 1961 (registration No. 720,427, registered on August 22, 1961).

The Domain Name was registered on February 5, 2024. The Domain Name is presently inactive but prior to the commencement of the proceeding the Domain Name resolved to a website (the "Respondent's Website") that purported to offer jam or jelly products under the SURE-JELL Mark while reproducing the Complainant's SURE-JELL logo mark. Following a takedown notice from the Complainant the Domain Name resolved to a pay-per-click website advertising products unrelated to any descriptive meaning of the Domain Name.

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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the SURE-JELL Mark through its subsidiaries, having registered the SURE-JELL Mark in the United States. The Domain Name is identical or confusingly similar to the SURE-JELL Mark as it merely adds the generic term "the" and the generic Top-Level-Doman ("gTLD") ".com" to a minor misspelling of the mark.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the SURE-JELL Mark. The Respondent is not commonly known by the SURE-JELL Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain by reproducing the Complainant's logo and copyrighted imagery and falsely purporting to offer the Complainant's goods. Such use is not a legitimate use of the Domain Name nor is the subsequent use for a pay-per-click site to monetize the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website to disrupt the Complainant's business and divert Internet users searching for the Complainant to a competing website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue. Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes the post service was not able to deliver the Written Notice to the address which the Respondent had provided in Ukraine due to "Recipient absent". However, the Notification of Complaint was delivered to the Respondent's email address provided by the Registrar without receiving any delivery failure response. The Respondent has not opposed to the continuation of the proceedings.

The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned Registrar in the United States. Moreover, as described below, the Panel believes the Respondent has registered the Domain Name in bad faith to target the Complainant and mislead consumers.

6.2 Substantive Issues

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.

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

A domain name which consists of a misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for the purpose of the first element. Here the removal of the hyphen from the SURE-JELL Mark creates such a minor misspelling. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms here, "the", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's initial use of the Domain Name to resolve to the Respondent's Website purporting to offer jam and jelly products under the SURE-JELL Mark and reproducing the Complainant's logo mark does not amount to use for a bona fide offering of goods and services. This conduct amounts to the Respondent passing itself off as the Complainant. It appears that the purpose behind the Respondent's Website was to encourage visitors, under the impression that they are dealing with the Complainant, to purchase the jam and jelly products purportedly offered by the Respondent, such conduct not being a bona fide offering of goods and services.

With respect to the subsequent use of the Domain Name for a pay-per-click site, the Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether "parked" pages comprising pay-per-click links support the respondent's rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) notes that:

"Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC [pay-per-click] links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark."

In the present case, the Respondent's subsequent use of the confusingly similar Domain Name to host a parking page with pay-per-click links unconnected to any dictionary meaning of the Domain Name, absent any further explanation, do not provide the Respondent with rights or legitimate interests in the Domain Name.

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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the SURE-JELL Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name that is virtually identical to the SURE-JELL Mark and direct it to a website purportedly offering jam and jelly products under the Complainant's SURE-JELL Mark while reproducing the Complainant's logo mark unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its SURE-JELL Mark.

The Respondent passed off as the Complainant and purported to offer jam and jelly products under the Complainant's SURE-JELL Mark on the Respondent's Website. The Panel finds that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SURE-JELL Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. Neither the subsequent use of the Domain Name for a pay-per-click site nor the current inactiveness of the Domain Name prevents a finding of bad faith.

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 Domain Name <thesurejell.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: February 13, 2025