

ADMINISTRATIVE PANEL DECISION

ZeniMax Media Inc. v. darren mcgraw

Case No. D2026-3378

1. The Parties

Complainant is ZeniMax Media Inc., United States of America ("United States"), represented by Edward Nathan Sonnenbergs Inc., South Africa.

Respondent is darren mcgraw, United States.

2. The Domain Name and Registrar

The disputed domain name <qu4ke.com> (the "Domain Name") 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 July 30, 2026. On July 30, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 3, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on August 7, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 11, 2026.

The Center verified that the Complaint together with the amendment to the 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 August 18, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2026. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 17, 2026. On September 18, 2026, the Center received an email communication from Respondent.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on September 18, 2026. 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, a creator and publisher of interactive entertainment software, is a company which is part of the group of companies affiliated to Microsoft Corporation ("Microsoft"), a developer and provider of personal computer software systems and applications, cloud computing services, video games and other online services. In September 2020, Microsoft acquired ownership over all of Complainant and all its subsidiaries, now as part of the larger XBOX division. Complainant's studios include id Software, the developer best known for creating the first-person shooter genre with franchises such as Doom and Quake, the latter of which was first released on June 22, 1996, with other Quake games released in the following years including Quake 4 released in 2005.

Complainant owns numerous registered trademarks globally in QUAKE and QUAKE 4:

- United States trademark registration number 2254868 for the QUAKE word mark, registered on June 22, 1999; and
- European Union trademark registration number 004744439 for the QUAKE 4 word mark, registered on July 20, 2007.

The case record shows that Darren McGraw, whose email address matches that of Respondent in this case, applied to register the QU4KE trademark under Serial No. 99652557 on February 13, 2026 in the United States. The application is listed as "LIVE/APPLICATION/Under Examination", with the notation: "An Office action suspending further action on the application has been sent (issued) to the applicant."¹

The Domain Name was registered on December 30, 2025 and resolves to a website that presents itself as "QU4KE", promoting a concept for a game for iPhone called "QU4KE", a systems-driven sci-fi game where players stabilize a collapsing world using the 4K System (Gravity, Time, Knowledge, Keystone). The website is designed to present the QU4KE game concept to potential investors, publishers, studios, and infrastructure partners, and to solicit interest and support for the development and commercialization of this game.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that (i) the Domain Name is confusingly similar to Complainant's trademark; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision, in particular to affirm or corroborate a party's contention. Section 4.8 of the WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)").

In particular, Complainant contends that it has trademark registrations and rights for QUAKE and QUAKE 4 marks and that Respondent registered and is using the Domain Name <qu4ke.com>, which is a typosquatted variant where the letter “A” (in the third character) from the trademark QUAKE is replaced with the number “4” or, alternatively, the letter “A” (in the third character) from the trademark QUAKE 4 is replaced with the number “4” (from the sixth character of the trademark QUAKE 4), with the intention to confuse Internet users looking for Complainant’s bona fide and well-known services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name which includes Complainant’s trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant’s rights. Specifically, Complainant argues that Respondent has used the Domain Name to promote a video game concept in the same industry and in a similar science fiction setting as Complainant’s well-known QUAKE gaming products.

Moreover, Complainant has reason to believe that Respondent is the same person who applied to register the QU4KE trademark in the United States under Application No. 99652557. The United States Patent and Trademark Office (“USPTO”) refused registration of the application because of a likelihood of confusion with Complainant’s prior registered trademarks, stating in the Office Action that “[...] they share the term QUAKE and they create confusingly similar commercial impressions. The applicant’s mark replaces the A in QUAKE with the number 4, however, the terms share the same commercial impression. [...] Applicant seeks to register its mark for ‘Downloadable video game programs.’ Registrant’s goods are ‘computer game programs,’ [...] These goods are virtually identical because they are all computer games.”

B. Respondent

Respondent did not formally reply to Complainant’s contentions. However, on September 18, 2026, Respondent sent an email to the Center, indicating that he is “confused and concerned” about the Domain Name, and that he is “in the process of designing coffee cups and [...] spent 1000’s of dollars on this name”, and that he does not “understand why someone can just take [his] name away”.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the [WIPO Overview 3.1](#) states that failure to respond to complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to formally respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Complainant has provided evidence of its rights in the QUAKE and QUAKE 4 trademarks, as noted above. Complainant has therefore proven that it has the requisite rights in the QUAKE and QUAKE 4 trademarks.

With Complainant's rights in the QUAKE and QUAKE 4 trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it was registered (in this case, ".com"), is confusingly similar to Complainant's trademarks. Section 1.11 of the [WIPO Overview 3.1](#).

Here, the Domain Name is confusingly similar to Complainant's QUAKE and QUAKE 4 trademarks. The QUAKE and QUAKE 4 trademarks are recognizable in the Domain Name.

The replacement of the letter "A" in the QUAKE trademark with the number "4" in the Domain Name or the replacement of the letter "A" in the QUAKE 4 trademark with the number "4", together with the omission of the number "4" in the QUAKE 4 trademark in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the QUAKE and QUAKE 4 trademarks. See section 1.9 of the [WIPO Overview 3.1](#).

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its QUAKE and QUAKE 4 trademarks and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the QUAKE and QUAKE 4 trademarks or to seek registration of any domain name incorporating this trademark. Respondent is also not known to be associated with the QUAKE and QUAKE 4 trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name. Further, Respondent's applied for the QU4KE trademark as referenced above has received an Office Action from the USPTO due to its likelihood of confusion with Complainant's prior registered trademarks.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, the record shows that the Domain Name resolves to a website that presents itself as "QU4KE", promoting a concept for a game for iPhone called "QU4KE". The website is designed to attract investors, publishers, studios, and infrastructure partners for the development and commercialization of this game, which is in the same business industry, i.e., video game market, as Complainant.

Accordingly, Complainant has provided evidence supporting its prima facie showing that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the QUAKE and QUAKE 4 trademarks predate the registration of the Domain Name. Complainant is also well established and known; indeed, the record shows that Complainant’s QUAKE and QUAKE 4 trademarks and related services are known and recognized for purposes of the Policy. Therefore, and also noting the use analysis below, Respondent was clearly aware of the QUAKE and QUAKE 4 trademarks when it registered the Domain Name.

The Panel therefore finds that Respondent’s awareness of Complainant’s trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

As noted above, the Domain Name resolves to a website that presents itself as “QU4KE”, promoting a concept for a game for iPhone called “QU4KE”, and the website is designed to attract investors, publishers, studios, and infrastructure partners for the development and commercialization of this game, which is in the same business industry, i.e., video game market, as Complainant. Therefore, the Panel finds that Respondent registered the Domain Name, which is a misspelling of Complainant’s trademarks, with the intention to attract Internet users to its own website, promoting a competing video game. UDRP panels have consistently held that a respondent’s use of a domain name to trade off goodwill in a complainant’s well-known trademark, constitutes bad faith. See *Philip Morris Products S.A. v. homn mohmoodi*, WIPO Case No. [D2022-4158](#). Moreover, such use of the Domain Name may potentially result in tarnishing Complainant’s reputation and goodwill.

Therefore, the Panel finds that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with Complainant’s trademarks, which constitutes bad faith under paragraph 4(b)(iv) of the Policy.

Finally, the Panel also notes the failure of Respondent to submit a formal response. In the present circumstances, considering the reputation of the QUAKE and QUAKE 4 trademarks, and the use of the Domain Name, the Panel finds that Respondent registered and is using the Domain Name in bad faith.

Therefore, the Panel finds that Complainant succeeds under the third element of paragraph 4(a) 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 <qu4ke.com> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: September 25, 2026