

ADMINISTRATIVE PANEL DECISION

Krispy Kreme Doughnut Corporation, HDN Development Corporation v.
Name Redacted
Case No. D2023-3061

1. The Parties

The Complainants are Krispy Kreme Doughnut Corporation and HDN Development Corporation, United States of America (“United States”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <krispykremefranchises.com> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

A complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (DOMAIN ADMINISTRATOR, PRIVATE REGISTRY AUTHORITY) and contact information in the complaint. The Center sent an email communication to the Complainants on July 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the complaint. The Complainants filed an amended complaint on July 20, 2023 (together with original complaint, the “Complaint”).

The Center verified that 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

¹ The Respondent appears to have used the name and/or contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 August 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2023. The Respondent did not submit a Response. Accordingly, the Center notified the Respondent of its default on August 31, 2023.

The Center appointed Steven Auvil as the sole panelist in this matter on September 11, 2023. 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

According to the Complaint, the Complainant HDN Development Corporation is a subsidiary of the Complainant Krispy Kreme Corporation which are together wholly owned subsidiaries of Krispy Kreme, Inc. The Complainants are international retailers of fresh sweet treats, including premium-quality doughnuts, with more than 1200 locations in more than thirty countries around the world. Over the years, the Complainants have spent significant sums of money in the advertising, marketing and promotion of their products and services. In 2021, the Complainants spent over USD 39 million in marketing their KRISPY KREME brand and produced total revenues of more than USD 1.38 billion.

The Complainants have used the KRISPY KREME mark since 1937. According to the Complaint, the Complainant HDN Development Corporation, owns trademarks and service marks in connection with the KRISPY KREME brand including, *inter alia*, United States Registration No. 938245 (registered July 18, 1972), United States Registration No. 967684 (registered September 4, 1973), United States Registration No. 961976 (registered June 26, 1973), United States Registration No. 5826766 (registered August 6, 2019), European Union Registration No. 001298660 (registered May 11, 2006), European Union Registration No. 001298785 (registered November 23, 2007), China Registration No. 2010907 (registered December 21, 2002), China Registration No. 30319236 (registered February 14, 2019), Canada Registration No. TMA569178 (registered October 21, 2002), Mexico Registration No. 737142 (registered February 28, 2002), Australia Registration No. 918894 (registered July 4, 2002). The Complainants own and use the domain name <krispykreme.com> in connection with the KRISPY KREME mark.

The disputed domain name <krispykremefranchises.com> was registered on April 6, 2023. According to the Complaint, the Respondent has used the disputed domain name to impersonate the Complainants to defraud unsuspecting individuals by using the KRISPY KREME mark and the Complainants’ corporate headquarters address to promote purported franchise opportunities to operate a KRISPY KREME store. At the time of writing this Decision, the disputed domain name resolved to an active website for Krispy Kreme franchise information displaying the KRISPY KREME mark and images of a KRISPY KREME storefront.

5. Parties’ Contentions

A. Complainant

The Complainants allege that the disputed domain name is confusingly similar to its KRISPY KREME mark because it fully incorporates the KRISPY KREME mark with the addition of the word “franchises” at the end of the disputed domain name. The Complainants contend that the disputed domain name is likely to deceive consumers into believing the disputed domain name is associated with the Complainants.

The Complainants also assert that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not commonly known by the disputed domain name. The

Respondent is also not affiliated with the Complainants and has never obtained a license from the Complainants to use the KRISPY KREME mark.

Additionally, the Complainants assert that the Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain name. The Respondent used the disputed domain name without permission or authorization from the Complainants, to capitalize on the KRISPY KREME brand solely for commercial gain.

The Complainants further assert that the Respondent registered and used the disputed domain name in bad faith for commercial gain and to benefit from the goodwill and notoriety associated with the KRISPY KREME brand. The Complainants assert that the Respondent acted in bad faith by registering the disputed domain name, which fully consists of the Complainants' KRISPY KREME mark, for purposes of perpetrating fraud upon individuals who believe they are pursuing a franchise opportunity with the Complainants. The Complainants also assert bad faith in that the Respondent registered the disputed domain name many years after the Complainants started using the KRISPY KREME mark.

The Complainants requests that the disputed name be transferred to the Complainants.

B. Respondent

The Respondent did not respond to the Complaint.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service in which the Complainants have rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint, unless the evidence is clearly contradictory, and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence presented.

A. Identical or Confusingly Similar

The evidence submitted by the Complainants supports the conclusion that the Complainants have registered rights in KRISPY KREME. The Complainant HDN Development Corporation owns numerous trademarks registrations for KRISPY KREME. The Panel therefore finds that the Complainants have rights in the KRISPY KREME mark. See *Krispy Kreme Doughnut Corporation, HDN Development Corporation v. Privacy Service Provided by Withheld for Privacy ehf / SALEH BAHJAT*, WIPO Case No. [D2022-2376](#).

Section 1.8 of [WIPO Overview 3.0](#) states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” It is further understood that when a disputed domain name fully incorporates a complainant’s registered mark, it is indicative of the disputed domain name being identical or confusingly similar. See [WIPO Overview 3.0](#), section 1.7; *Nomura International Plc / Nomura Holdings, Inc. contre Global Domain Privacy / Nicolas Decarli*, WIPO Case No. [D2016-1535](#).

Here, the disputed domain name incorporates the Complainants’ entire KRISPY KREME mark followed by the term “franchises” and the generic Top-Level Domain (“gTLD”) “.com.” The Respondent’s addition of the word “franchises” to the Complainants’ KRISPY KREME mark in the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8; *Krispy Kreme Doughnut Corporation, HDN Development Corporation v. Privacy Service Provided by Withheld for Privacy ehf / SALEH BAHJAT*, WIPO Case No. [D2022-2376](#) (the addition of the term “franchising” does not negate a finding of confusing similarity); *Estee Lauder Inc., Estee Lauder Cosmetics Ltd., and Makeup Art Cosmetics Inc. v. Walter C. Parker and Carol F. Morris*, WIPO Case No. [D2020-0593](#) (the addition of the term “franchise” does not negate a finding of confusing similarity).

Additionally, as set forth in section 1.11.1 of [WIPO Overview 3.0](#), the applicable gTLD (e.g., “.com”, “.site”, “.info”, “.shop”) “is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” As such, the use of “.com” has no bearing on establishing identity or confusing similarity here. See *Calzaturificio Casadei S.p.A. V. Nancy Salvaggio*, WIPO Case No. [D2019-2329](#); *Ally Financial Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2037](#).

Therefore, the Panel finds that the Complainants have proven that the disputed domain name is confusingly similar to the Complainants’ mark. Therefore, the first element of paragraph 4(a) of the Policy is met.

B. Rights or Legitimate Interests

From the Complainants’ allegations and evidence as well as the inferences drawn from the evidence, the KRISPY KREME mark is a distinctive and well-known mark registered by the Complainants. The Complainants have a worldwide presence, including over 1,000 locations throughout thirty countries. The Complainants allege that they did not license or otherwise authorize the Respondent’s use of the KRISPY KREME mark and that they have no affiliation, association, sponsorship, or connection with the Respondent. Therefore, the Panel finds that the Complainants have made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Section 2.1 of [WIPO Overview 3.0](#) provides that “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.” Here, the Respondent did not respond to the Complaint.

Furthermore, the disputed domain name carries a risk of implied affiliation with the Complainants. See [WIPO Overview 3.0](#), section 2.5.1. The association of the word “franchises” attached to the KRISPY KREME mark suggests that the disputed domain name will resolve to a website legitimately offering KRISPY KREME franchises. Indeed, the disputed domain name resolves to a website deceptively offering KRISPY KREME branded franchises for sale once an applicant has completed a detailed applications containing personal and financial information and paid USD 30,000 franchise fee.

Accordingly, the Panel finds that the Respondent in fact has no rights or legitimate interests in the disputed domain name and that the second element of paragraph 4(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Section 3.1.4 of [WIPO Overview 3.0](#) provides that “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Additionally, section 3.2.1 of [WIPO Overview 3.0](#) provides that “[p]articular circumstances panels may take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant’s mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant’s area of activity or natural zone of expansion) [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent’s choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant.”

Here, as noted above, the disputed domain name incorporates the entirety of the Complainants’ registered and well-known KRISPY KREME mark. In light of this and the other the circumstances, including the failure of the Respondent to respond to the Complaint, the Panel finds that the Respondent knew of the Complainants’ KRISPY KREME mark at the time of registering the disputed domain name and endeavored to unfairly capitalize on the Complainants’ KRISPY KREME mark for commercial gain. The Panel finds that the disputed domain name was registered and used in bad faith as part of a scheme to make money and steal personally identifying information from unsuspecting persons who wished to obtain a franchise from the Complainants. The use of the disputed domain name and the Respondent’s intentionally deceptive website present a classic case of bad faith registration and use. *Pfizer Inc. v. Sarthak Kapoor*, WIPO Case No. [D2019-0292](#); *Desko GmbH v. Mustafa Mashari*, WIPO Case No. [D2015-0817](#).

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the third element of paragraph 4(a) of the Policy is satisfied.

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, <krispykremefranchises.com>, be transferred to the Complainants.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: September 25, 2023