



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No:	HK-2201612
Complainant:	THE QUAKER OATS COMPANY
Respondent:	sha chen
Disputed Domain Name:	<quaker30.com>

1. The Parties and Contested Domain Name

The Complainant is THE QUAKER OATS COMPANY (the “**Complainant**”) of 433 W. Van Buren Street, Suite 350N, Chicago, Illinois 60607, United States of America (“**United States**”), represented by Baker & McKenzie, Hong Kong.

The Respondent is sha chen (the “**Respondent**”) of Hubei-qian jiang-zhu gen tan zhen zhou ling cun 6 zu, China.

The domain name at issue is <quaker30.com> (the “**disputed domain name**”), registered by the Respondent with Gname 009 inc (the “**Registrar**”) of Singapore.

2. Procedural History

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “**Centre**”) on March 30, 2022. On March 30, 2022, the Centre transmitted to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2022, the Registrar transmitted to the Centre its verification response disclosing registrant information for the disputed domain name which differed from the named Respondent information in the Complaint. The Centre sent an email communication to the Complainant on April 1, 2022, providing the registrant information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on April 4, 2022.

On April 7, 2022, the Centre verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “**Policy**”), the Rules of Procedure under the Policy (the “**Rules**”) and the Centre’s Supplemental Rules (the “**Supplemental Rules**”).

On April 8, 2022, in accordance with the Rules, the Centre formally notified the Respondent of the Complaint and the proceeding commenced. In accordance with the Rules, the due date for the Response was April 28, 2021. No Response was received by the Centre.

The Centre appointed Sebastian Hughes as the Panelist in this matter on May 1, 2022. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

A. Complainant

The Complainant is a company founded in 1877 in the United States, and specializing in the production, marketing and sale of oats and oatmeal products, internationally, under the trade mark QUAKER (the “**Trade Mark**”).

The Complainant is the owner of numerous registrations for the Trade Mark in jurisdictions worldwide, including United States registration No. 0057620, with a registration date of November 13, 1906; and Chinese registration No. 180242, with a registration date of July 5, 1983.

B. Respondent

The Respondent is apparently an individual resident in China.

C. The Disputed Domain Name

The disputed domain name was registered on October 31, 2021.

D. The Website at the Disputed Domain Name

The disputed domain name has previously been resolved to a Chinese language website with pornographic and gambling related content and hyperlinks (the “**Website**”). As at the date of this Decision, it is no longer resolved to an active website.

4. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar or identical to the Trade Mark, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a complainant to prevail:

- i. The respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. The respondent has no rights or legitimate interests in respect of the domain name; and
- iii. The respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark, followed by the number "30". Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection

with a *bona fide* offering of goods or services. To the contrary, the disputed domain name has previously been used, for commercial gain, in respect of the Website, which contained pornographic and gambling related content and hyperlinks; and it is presently no longer resolved to any active website.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name and that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C) Bad Faith

In light of the Panel's findings under section B) above, and in light of the undisputed evidence of the Respondent's use of the Website in the manner described above, the Panel finds the requisite element of bad faith has been satisfied, under paragraph 4(b)(iv) of the Policy.

For all the foregoing reasons, the Panel concludes that, for the purposes of the Policy, the disputed domain name has been registered and is being used in bad faith.

6. 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 <quaker30.com> be transferred to the Complainant THE QUAKER OATS COMPANY.



Sebastian Hughes
Sole Panelist

Dated: May 16, 2022