# Decision for dispute CAC-UDRP-106404

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| Case number | CAC-UDRP-106404 |
| Time of filing | 2024-04-11 09:04:59 |
| Domain names | kwaicreators.com |

## Case administrator

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| Organization | Iveta Špiclová (Czech Arbitration Court) (Case admin) |

## Complainant

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| Organization | Beijing Dajia Internet Information Technology Co., Ltd. |

## Complainant representative

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| Organization | Chofn Intellectual Property |

## Respondent

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| Name | Felipe Martins |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademarks for "KWAI", including International trademark registration no. 1621113 "KWAI", registered on 30 July 2021 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a high-tech company with user-oriented, artificial intelligence, big data analysis and audio-visual video as its core technology, which was established in 2014. It operates China's leading content community and social networking platform. The Trademark is used in connection with a video platform for markets outside of China.

The disputed domain name was registered on 12 February 2024 and is being used in connection with a website related to the Complainant's business.

On 7 May 2024, the Panel issued a Panel Order in which the Complainant was asked whether it insisted on a decision on the merits. The Complainant did not respond within the time limit.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark, that the Respondent has no right or legitimate interest in respect of the disputed domain name, and that the Respondent has registered the disputed domain name and is using it in bad faith.

RESPONDENT:

The Respondent has filed a non-standard communication on 12 April 2024, within the time limit for filing a response. The subject of the non-standard communication was: “Submission of Response to the Domain Name Dispute "kwaicreators.com." In its submission, the Respondent literally states: "I [...] submit this response to the administrative process regarding the use of the domain name "kwaicreators.com", demonstrating my full adherence to ethical practices and the principles of good faith." The Respondent also stated that he was "willing to transfer the domain name [...] to Kwai."

RIGHTS

Because of the parties' consent to transfer the disputed domain name (see below), the Panel need not reach a final conclusion on this point.

NO RIGHTS OR LEGITIMATE INTERESTS

Because of the parties' consent to transfer the disputed domain name (see below), the Panel need not reach a final conclusion on this point.

BAD FAITH

Because of the parties' consent to transfer the disputed domain name (see below), the Panel need not reach a final conclusion on this point.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

**Response**

The Panel notes, that the Respondent filed a non-standard communication on 12 April 2024, within the time limit for filing a response. The details of the communication are already described above.

The Respondent did not use the official Response form provided by the Czech Arbitration Court (CAC). The CAC informed the Respondent accordingly on 15 April 2024. The Respondent did not react further to this.

Pursuant to paragraph 5 of the Rules, a response must comply with certain formal requirements in order to be administratively compliant. Paragraph 5(c)(viii) of the Rules requires the respondent to conclude the response with the following statement followed by the signature (in any electronic format) of the respondent or its authorized representative:

"Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."

The Respondent did not use the official response form provided by the CAC and therefore did not include the statement required by paragraph 5(c)(viii) of the Rules. However, the Respondent did include its own certification and asserted that he would adhere to ethical practices and principles of good faith. Therefore, the Respondent's communication is not entirely uncertified and the content of the Respondent's certification refers to good faith, as does paragraph 5(c)(viii) of the Rules.

Paragraph 10(a) of the Rules provides that "[t]he Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.". In addition, paragraph 10(b) of the Rules requires the Panel to "ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case."

It is the Panel's understanding that the purpose of the certifications in the Rules is to ensure that the parties present their cases properly and that the proceedings are not abused for irrelevant reasons. The Complainant has not commented on the Respondent's non-standard communication and there is no indication that it contains untrue statements or has an improper purpose. As a result, the Panel considers the Respondent's certification to be sufficient and its non-standard communication of 12 April 2024 to be an administrative compliant Response.

**Consent to transfer**

In its non-standard communication on 12 April 2024, the Respondent agreed to transfer the disputed domain name to the Complainant. The Complainant issued a Panel Order, in which the Complainant was asked whether it insisted on a decision on the merits. The Complainant did not respond within the time limit and did not insist on a decision on the merits.

In accordance with Paragraph 10 of the Rules, the Panel possesses the discretion to administer the proceedings as it finds suitable. It is also acknowledged that panels are empowered to promptly issue a transfer order if the respondent has consented to the transfer of the contested domain name. Such consent from the respondent constitutes a valid and sufficient basis for an immediate transfer order, obviating the need for further examination of the elements outlined in Paragraph 4(a) of the Policy. See paragraph 4.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), with further references.

On this basis, the Panel does not consider it necessary to review the facts and the conditions supporting the claim given that the Respondent has agreed on the transfer of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **kwaicreators.com**: Transferred

## PANELLISTS

| Name | **Peter Müller** |
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DATE OF PANEL DECISION 2024-05-17

Publish the Decision