

## Decision for dispute CAC-UDRP-108200

Case number	<b>CAC-UDRP-108200</b>
Time of filing	<b>2025-12-08 09:52:28</b>
Domain names	<b>kwai.news</b>

### Case administrator

Name	<b>Olga Dvořáková (Case admin)</b>
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### Complainant

Organization	<b>Beijing Dajia Internet Information Technology Co., Ltd.</b>
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### Complainant representative

Organization	<b>Chofn Intellectual Property</b>
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### Respondent

Name	<b>xiao Xiao</b>
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### 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 owns the following trademark, registered well before the registration of the Disputed Domain Name:

- EU: Registration No. 018860693 for KWAI, with an effective date of July 26, 2023, covering goods and services in International Class 41;
- CN: Registration No. 23816258 for KWAI, with an effective date of March 7, 2019, covering goods and services in International Class 41;
- Madrid System: Registration No. 1621113 for KWAI, with an effective date of July 30, 2021, covering goods and services in International Class 9, 35, 36, 38 and 41

### FACTUAL BACKGROUND

The Complainant, Beijing Dajia Internet Information Technology Co., Ltd. states that it was established in 2014. It is a high-technology enterprise specializing in the development and deployment of user-oriented artificial intelligence, big data analytics, and audio-visual video technologies. It operates the KUAISHOU short-video platform, which is widely recognized as China's leading content community and social networking platform and is acknowledged as a pioneer and industry leader in the short-video sector. Kwai is a short-video platform developed by the Complainant for markets outside China and has successfully expanded into overseas markets, including Brazil, Korea, Russia, Vietnam, India, Turkey, Malaysia, Egypt, and Saudi Arabia. Kwai is currently operated by Joyo Technology Pte.

Ltd., an affiliated company of the Complainant, which manages its international operations. Joyo Technology Pte. Ltd. and Beijing Dajia Internet Information Technology Co., Ltd. are both subsidiaries/affiliated companies under the Kuaishou Technology Group.

At the end of 2016, the Complainant began expanding its overseas business, and KWAI was subsequently launched. According to a 2018 press release, KWAI ranked first in downloads (most-downloaded social short-video app) in several countries, including South Korea, Russia, Indonesia, Vietnam, the Philippines, Thailand, and Turkey.

The Complainant states further that its social short video app is very popular. It notes that Google Trends tracks the relative popularity of search queries across regions and languages over time, offering insights into emerging topics, seasonal patterns, and broader shifts in public interest. Its data, presented through interactive charts and maps, enables users, marketers, and researchers to analyze search behavior and compare the performance of specific terms. According to Google Trends data, substantial search interest in "KWAI" has been observed across numerous countries and regions since 2016. Notably, global search popularity for these terms peaked from April 2021 to July 2021.

At the end of 2020, Kwai initiated its fourth phase of overseas expansion, focusing its operational reach on Brazil and Indonesia and extending its influence across South America and Southeast Asia. Media reports indicate that Kwai established localized teams in both Brazil and Indonesia. According to a 2021 press release issued by PR Newswire, Kwai became the first social network in history to sponsor the CONMEBOL Americas Cup. To date, Kwai has been downloaded more than one billion times from the App Store and Google Play. These indicators collectively demonstrate that, through long-term and extensive use and promotion, the KWAI brand has become widely recognized among the relevant public and has developed a distinctive association with the Complainant.

According to the Complainant's full-year financial results for 2023, the company recorded total revenue of RMB 113.5 billion, representing a 20.5% increase over the RMB 94.2 billion reported in 2022. The Complainant also reported a net profit of RMB 10.3 billion for the year.

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#### PARTIES' CONTENTIONS

#### COMPLAINANT

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

In specific, the Complainant states.

1. The webpages accessed via the disputed domain name, <kwai.news>, offers news or information services, as well as paid services, which correspond to the Complainant's area of business activity or natural zone of expansion. At the relevant time, the KWAI brand had already attained significant public recognition; nevertheless, the Respondent failed to disclose any connection with the Complainant, thereby misleading users into believing that the services provided through the domain were associated with the Complainant or its KWAI platform.
2. The Respondent's conduct is deliberately intended to exploit the Complainant's reputation for commercial gain, and thus constitutes bad-faith use under the Policy. The Complainant conducted searches across multiple national and regional trademark databases under the Respondent's name and found no evidence that the Respondent holds any trademark rights in the term KWAI.
3. The Respondent is neither a distributor nor a business partner of the Complainant. At no time has the Complainant, directly or indirectly, authorized the Respondent to use the KWAI trademark, or any corresponding domain name, in any manner whatsoever.
4. The Respondent registered and is using the disputed domain name.

#### RESPONDENT

The Respondent has not appeared formally or informally to controvert the evidence submitted by the Complainant.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the respondent has registered and is using the domain name in bad faith.

In this case, the Czech Arbitration Court has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case and defend its registration of `<kwai.news>`.

By the Rules, paragraph 5(c)(i), respondent is expected to: "Respond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name ..." Notwithstanding Respondent's default Complainant is not relieved from the burden of establishing its claim. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, 3.0, Sec. 4.3: "Noting the burden of proof on the complainant, a respondent's default (i.e., failure to submit a formal response) 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." However, if a complainant's adduced evidence supports any element of the Policy, a respondent has an opportunity to contest the contention that its registration of the challenged domain name was unlawful.

1. The disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights; §4(a)
  - (i)

This first limb of the Policy requires Complainant to prove that it has a trademark right and that the disputed domain name is identical or confusingly similar to that mark. The Panel finds that Complainant has demonstrated that it has a registered trademark right to the term KWAI. Having established that element of the Policy, the next question is whether the disputed domain name is identical or confusingly similar to Complainant's mark. A side-by-side comparison of the domain name and the KWAI trademark demonstrates that at the second level `<kwai.news>` is confusingly similar to the mark in that it corresponds entirely to the Complainant's trademark.

At the threshold, it is necessary only to consider whether a domain name is either identical or similar enough in light of the purpose of the Policy to justify moving on to the other elements of a claim for cancellation or transfer of a domain name. The Panel in *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party, D2000-1415* (WIPO January 23, 2001) notes that "numerous prior panels have held [the purposes of the Policy are satisfied] when a domain name wholly incorporates a complainant's registered mark."

Generic Top-Level Domains should be disregarded when assessing whether a domain name is confusingly similar to the trademark in which the Complainant has rights, as they are functional necessities. Thus, the top-level extension is irrelevant in determining the issue under the first requirement of the Policy. (see *Credit Mutuel Arkea v. Domain Administration*, CAC Case No. 102345); also *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.* WIPO Case No. D2006-0451 ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar."); also *Bloomberg Finance L.P. v. Huang Wei*, Case No. D2015-1378 in which the Panel pointed out that "because Complainant is a company specialized in providing news, the combination of Complainant's trademark and the ".news" extension is not irrelevant to this case." Thus, given the nature of Complainant's business, the gTLD ".news" only increases the potential for confusion.

Accordingly, having demonstrated that the disputed domain name is confusingly similar to Complainant's KWAI trademark, the Panel finds Complainant has satisfied Para. 4(a)(i) of the Policy.

## 2. Rights and legitimate interests, §4(a)(ii)

Under paragraph 4(a)(ii) of the Policy, a complainant has the burden of establishing that a respondent lacks rights or legitimate interests in respect of the disputed domain name, but this burden is light. It is sufficient in the first instance for Complainant to allege a *prima facie* case, and if the evidence presented is persuasive or yields a positive inference that Respondent lacks rights or legitimate interests, the burden shifts to Respondent to rebut the allegations. This concept of shifting burdens is clearly explained in *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, D2003-0455 (WIPO August 21, 2003) in which the Panel held that "[s]ince it is difficult to prove a negative [...] especially where the Respondent, rather than complainant, would be best placed to have specific knowledge of such rights or interests—and since Paragraph 4(c) describes how a Respondent can demonstrate rights and legitimate interests, a Complainant's burden of proof on this element is light."

The Panel finds that the Complainant has presented a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once the complainant makes such *prima facie* showing, "the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. Once the burden shifts, Respondent has the opportunity of demonstrating its right or legitimate interest by showing the existence of any of the following nonexclusive circumstances:

- (i) before any notice to you [respondent] of the dispute, your use of, or 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; or
- (ii) you [respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you [respondent] are making a legitimate non-commercial 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.

If a respondent proves any of these circumstances or indeed anything else that shows it has a right or legitimate interest in the domain name, the complainant will have failed to discharge its onus and the respondent must succeed. However, if the respondent fails to come forward with evidence showing rights or legitimate interests, "the complainant will have sustained its burden under the second element of the UDRP," *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. D2008-1393 (December 8, 2008). Finally, "in the absence of direct evidence [which, in this case, there is none], complainant and the panel must resort to reasonable inferences from whatever evidence is in the record," *Euromarket Designs, Inc. v. Domain For Sale VMI*, WIPO Case No. D2000-1195.

The Respondent has not appeared in this case. The Complainant avers that it has not granted any rights to Respondent to use the KWAI trademark, nor is "Xiao Xao" (the disclosed name of Respondent) known by the name of the disputed domain name. See *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group*, FA1804001781783 (Forum May 11, 2018) ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group. The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name."). As it is evident that Xiao Ziao is not commonly known by the disputed domain name, it cannot claim any right or legitimate interests under Policy 4(c)(ii). See also *Amazon Technologies, Inc. v. Suzen Khan / Nancy Jain / Andrew Stanzy*, FA 1741129 (FORUM August 16, 2017) (finding that respondent had no rights or legitimate interests in the disputed domain names when the identifying information provided by WHOIS was unrelated to the domain names or respondent's use of the same).

Finally, there is no evidence of legitimate noncommercial or fair use of the domain name. Since there is no proof otherwise, the record supports the conclusion that Respondent lacks any right or legitimate interest as measured by the three circumstances of paragraph 4(c). See *Deutsche Telekom AG v. Britt Cordon*, D2004-0487 (WIPO September 13, 2004) (holding that "once a complainant establishes a *prima facie* case that none of the three circumstances establishing legitimate interests or rights applies, the burden of production on this factor shifts to the Respondent. If the respondent cannot do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP). Similarly, in *Malayan Banking Berhad*, *supra*. (holding that "[i]f the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP").

Accordingly, the Panel finds that the Complainant has satisfied Paragraph §4(a)(ii) of the Policy.

## 3. Registered and Used in Bad Faith, §4(a)(iii)

Having determined that Respondent lacks rights or legitimate interests, the Complainant must then prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith. The consensus is expressed in WIPO Overview 3.0, section 3.1.4. is that "the mere registration of a domain name that is identical or confusingly similar [...] to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith." That presumption is present in this case, as there is no cogent explanation from the Respondent justifying its choice of domain name. This *prima facie* supports the conclusion that the Respondent registered the disputed domain name with the purpose of taking advantage of the goodwill and reputation accruing to Complainant's trademark. Whatever value the disputed domain name may have is directly related to the goodwill Complainant has established for its trademark in the international marketplace, as established here by the multiple number of national registrations for KWAI.

Paragraph 4(b) of the Policy sets out four nonexclusive circumstances, any one of which is evidence of the registration and use of a domain name in bad faith, although other circumstances may also be relied on, as the four circumstances are not exclusive. Of the four

nonexclusive circumstances, paragraph 4(b)(iv) most readily applies. It provides:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line 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 site or location.

The structure of the disputed domain name in this case – incorporating in its second level the identical name of the Complainant's trademark KWAI – is suggestive of an association with Complainant that it does not have. See Royal Bank of Canada - Banque Royale Du Canada v. Registration Private, Domains By Proxy, LLC / Randy Cass, WIPO Case No. D2019-2803 ("[W]here the facts of the case establish that the respondent's intent in registering or acquiring a domain name was to unfairly capitalize on the complainant's nascent [...] trademark, panels have been prepared to find the respondent acted in bad faith".) Such actions are clearly intended to exploit the trust and recognition associated with the reputable brand for the Respondent's own benefit.

The Complainant explains that the term "KWAI" is not a generic or commonly used word in English, nor does it possess any independent meaning outside its association with the Complainant's services. The adoption of "KWAI" as the English-language designation for this product series was widely publicized and has become closely associated with the Complainant's technological offerings and well-known reputation. The Respondent registered a domain name that is identical to the Complainant's trademark "KWAI".

In light of this extensive and well-documented public exposure and considering the linguistic and commercial context in which it operates, it is inconceivable that the Respondent registered the disputed Domain Name without knowledge of the Complainant and its trade mark and that it purposefully intended to target the Complainant. This timing and choice of domain strongly suggest a deliberate attempt to associate with the Complainant's brand and capitalize on its marketplace reputation without any authorization or legitimate interest.

Notably, <kwai.news> resolves to a website in Chinese and notably, too, the website associated with the disputed domain name lists a contact address in Chaoyang District, Beijing, China, which is connected to the Complainant's operations. Such behavior is incompatible with any claim to rights or legitimate interest in the disputed Domain Name and further supports the conclusion that the Respondent's registration and use of the Domain Name were carried out in bad faith. As clarified in section 3.4 of the WIPO Overview 3.0, Panels have consistently held that the use of a domain name for purposes other than hosting a legitimate website – such as phishing, identity theft, or deceptive redirection – may constitute bad faith. In the present case, the Respondent is clearly attempting to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

This behavior amounts to intentional exploitation of the Complainant's brand reputation and is direct evidence of bad faith (See, e.g., WIPO Case No. DCO2023-013, Udemy, Inc. v. Dan Mao; WIPO Case No. D2018-2251, Facebook Inc. v. June Kimchi c/o Dynadot; WIPO Case No. D2023-0811, and Sentara Healthcare v. Katherine Cole; WIPO Case No. D2023-2091. In this regard, the Complainant highlights that it has been stated in various decisions that the registration of a domain name with the knowledge of the complainant's trademarks is evidence of bad faith (see WIPO Case No. D2012-0793, Belstaff S.R.L. v. jiangzheng ying, WIPO Case No. DCO2023-013, Udemy, Inc. v. Dan Mao; WIPO Case No. D2018-2251, Facebook Inc. v. June Kimchi c/o Dynadot; WIPO Case No. D2023-0811, Sentara Healthcare v. Katherine Cole; WIPO Case No. D2023-2091, Tarmac Trading Limited v. Garrett Henson, Atum Systems).

In concluding that the Respondent registered and is using the disputed domain name in bad faith, the Panel finds that the Complainant has adduced more than sufficient evidence both in general and in particular. This puts the Respondent's conduct squarely within paragraph 4(b)(iv) as well as within the larger notion of abusive conduct. In particular, the Respondent's registration of the disputed Domain Name occurred at a time when the Complainant's KWAI brand had already gained visibility through formal trademark filings and sustained public promotion. Thus, the Panel agrees with the Complainant in concluding that the evidence establishes that the disputed domain name was registered and is being used in bad faith. See Auchan Holding SA v. WhoisGuard Protected / WhoisGuard, Inc. / Daniel Morgan, WIPO Case No. D2021-0797 ("The evidence outlined above that the Respondent is falsely suggesting he is connected and/or authorised by the Complainant in order to gather personal information for phishing purposes is evidence that the Respondent has acted in opposition to the Complainant's commercial interests and has unduly disrupted the business of the Complainant.") See also WIPO Overview 3.0, Sec. 3.3: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark; (ii) the failure of the respondent . . . to provide any evidence of actual or contemplated good-faith use, . . . and (iv) the implausibility of any good faith use to which the domain name may be put."

Accordingly, having thus demonstrated that Respondent registered and is using the disputed domain name in bad faith, Complainant has also satisfied paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **kwai.news**: Transferred

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**PANELISTS**

Name

**Gerald Levine Ph.D, Esq.**

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DATE OF PANEL DECISION

2026-01-12

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Publish the Decision

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