



Match and Mismatch

The Wahaha-Danone Dispute

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Synopsis

China's leading beverage company, Hangzhou Wahaha Group (Wahaha), and the French beverage giant, Groupe Danone (Danone), formed a strategic Joint Venture (JV) partnership in 1996. In the next decade, Wahaha became China's biggest and the 5th largest beverage producer worldwide, with annual sales of RMB 11.1 billion (US\$ 1.4 billion)¹. By 2006, 5%-6% of Danone's global profits came from the JV and "Wahaha" was among its top 4 brands².

Despite all this success, Danone and Wahaha became trapped in a complex and thorny relationship. A series of legal battles accompanied by high-profile media wars broke out in April 2007. The initial trademark transfer dispute escalated into fights about foreign monopoly, local protectionism and national economic security, which led to the presidents of both countries asking each party to find an amicable solution.

Danone's first half-year result for 2007 shows that its sales from the JV dropped by 6% compared to the same period in 2006, and its stocks plunged by 9% just over two months after its confrontation with Wahaha became public. How could a promising relationship turn bitter, and why? Given that for many multinationals China is an indispensable market, what lessons can they draw from the Danone-Wahaha dispute?

A Hasty Relationship

Danone and Wahaha were brought together by Hong Kong-based Peregrine Investment Holdings³ in 1995. Not long after their first meeting, the two companies formed a JV partnership on 28 March 1996: Danone owned 51% equity stakes and Wahaha 49%. Danone did not invest directly in the JV. Instead, jointly with Peregrine it founded a Singapore-based company—Jinjia Investment Company Ltd. (Jinjia)—to invest in the Wahaha-Danone JV. Danone then held 70% of Jinjia, and Peregrine 30%.

Two contracts were signed in 1996, the "Joint Venture Contract" and the "Contract of Trademark Transfer". The JV contract stipulated that Wahaha "may engage in NO activities that are in competition with the JVs, including production, distribution and sales". The "Contract of Trademark Transfer" obliged Wahaha to transfer over 200 trademarks—including the nationally famous brand "Wahaha"—and all their legally protected rights to the JV, and stated that "no third party is allowed to use the trademarks or own any rights related to them".

The trademark "Wahaha" was valued at RMB 100 million (US\$ 13.6 million). Danone paid half this amount (RMB 50 million) as registered capital of the JV. Wahaha's investment was mainly the trademark and fixed assets like machinery, construction and buildings.

¹ Wahaha's annual sales were reported to have reached RMB 18 billion (US\$ 2.5 billion) by 2008. Also, see the section 'Zong Qinghou and Wahaha'.

² See the section 'Danone and Its Strategy'.

³ Peregrine (including Peregrine Investments Holdings Limited and Peregrine Infrastructure Investments Limited) was an investment company based in Hong Kong. It was liquidated following the downturn of the Indonesian economy during the Asian financial crisis, and was acquired by BNP Paribas.

As a start, the largest 5 of 10 Wahaha subsidiaries were chosen to become JVs, including Hangzhou Wahaha Baili Foods, Hangzhou Wahaha Health Foods, Hangzhou Wahaha Foods, Hangzhou Wahaha Beverages and Hangzhou Wahaha Quick Frozen Foods, covering the manufacture of Wahaha's main product categories. Between 1996 and 2007, another 34 JVs were established by Danone and Wahaha.

As Zong Qinghou⁴, the director of the JVs, recalled, the aim of establishing the JVs was not financing, but to speed up Wahaha's growth through the use of foreign technology and give it a competitive edge in the Chinese market. The JVs were the right strategy: they gave Wahaha access to Danone's production technology and capital, making it dominant nationally and internationally within 10 years. Through the JVs, Wahaha also transferred the part of its assets that originally belonged to the government out of state control.

Danone's aim with the JVs was to gain access to Wahaha's distribution network as well as a foothold in the Chinese market. Wahaha was Danone's most important strategic partner in China, but Danone also formed partnerships with all the other major players in China's dairy, beverage and food industries, gaining rights to leading Chinese brands.

Zong Qinghou, Chairman and CEO of Wahaha, was made chairman and managing director of the JVs. Danone held the vice-chairmanship (in the person of Emmanuel Faber) and supervised the JVs through the board of directors. From Day One of the JV partnership, however, Danone "decided to hand over control to Zong Qinghou", admitted Emmanuel Faber. Zong was an entrepreneur, making decisions on his own and maintaining a flat management structure, who preferred to have middle-level managers report directly to him⁵.

Multiple Disputes

Shareholding

Conflicts between Danone and Wahaha arose in 1998. After the East Asian financial crisis of 1997, Peregrine sold its entire stake in Jinjia to Danone, giving Danone 100% control of Jinjia. The JVs between Wahaha, Danone and Peregrine became JVs solely between Wahaha and Danone, with Danone holding a majority share.

Wahaha found this out only in May 1998, just before Peregrine's bankruptcy, when a Danone representative replaced the Peregrine director in Jinjia. According to Zong Qinghou, Peregrine had sold its stake to Danone without informing Wahaha and this resulted in Danone's control over Wahaha in the JVs. Danone claimed that its majority shareholding status was part of the agreement from the beginning. Wahaha, however, accused Danone of setting a contractual trap. Zong Qinghou commented in 1996 that Wahaha had just got to know about capital management and had been cheated by Danone.

⁴ Zong Qinghou, born in 1945, is a Chinese entrepreneur, founder, chairman and CEO of the Hangzhou Wahaha Group, ranked China's 23rd richest man and 840th in the world by Forbes in 2007. See the section 'Zong Qinghou Qinghou and Wahaha'.

⁵ Zong even sent back a French marketing manager and a technical manager because they did not significantly contribute to the JVs.

Trademark Transfer

In April 1996, Wahaha submitted the “Contract of Trademark Transfer” to the China Trademark Office for permission but did not get a green light. It resubmitted the application in September 1997 and was refused again. According to Zong Qinghou, the refusal was due to Chinese government’s sudden tightening of rules on foreign acquisition.

After the authorities refused the trademark transfer, Wahaha and Danone signed an informal agreement “Contract of Trademark Use” in 1999 to replace the formal “Contract of Trademark Transfer”. This informal contract stated that: “Danone and Wahaha have understood and agreed to sign the formal contract only for the purpose of registration at the China Trademark Office and State Administration for Industry and Commerce. All terms regarding the use of the trademark are included in this informal contract”.

In 2001, the regulations on foreign mergers and acquisitions (M&A) were abolished after China joined the World Trade Organization (WTO)⁶. Danone thought that the Wahaha trademarks should be transferred. But the transfer never took place. Emmanuel Faber, the CEO of Danone Asia Pacific, said that Zong Qinghou tried to delay the transfer with all kinds of reasons and did not submit the application again. Zong Qinghou told a different story: “We never stopped applying for a permission to transfer the trademarks, but were rejected by the trademark office again and again”. He even produced an official document explaining that the applications had been rejected on the basis of the Provisions for the Regulations of Trademarks for Enterprises.

Emmanuel Faber was not convinced by this and claimed that the applications were rejected not because of the trademark law but the invalidity of the application. According to him, Wahaha and the JVs never submitted the application together, and the application submitted by Wahaha alone was invalid.

Professor Tang Guangliang, a legal expert in the Intellectual Property Rights Centre at the Chinese Academy of Social Sciences, offered yet another explanation. He said that China’s trademark law defined “trademark” as a “civil right” or “private right” that the Trademark Office had no authority over: It could not have refused Wahaha’s applications.

In October 2005, Danone and Wahaha amended the “Contract of Trademark Use” and signed “Amendment Agreement No. 1”, stipulating that Wahaha companies not included within the JVs could use Wahaha trademarks with approval from the JVs’ board of directors on condition that they had an Original Equipment Manufacturer (OEM) contract with the JVs and were in industries (e.g. clothing, cosmetics, etc.) not competing with the JVs. Signing this contract broadened the scope of the use of legal Wahaha trademarks, further complicating trademark ownership.

Wahaha’s Non-JVs

⁶ Under new legislation from 2001, a foreign company did not have to form a JV with a Chinese counterpart in order to operate in China, as previously required. Instead, it could operate as a wholly-owned foreign enterprise or even acquire the old JV.

Without Danone, Zong Qinghou had Wahaha invest in various Chinese food, dairy and beverage companies. By 2006, Wahaha owned 35 companies that were not Danone-Wahaha JVs and had total assets estimated at RMB 5.6 billion (US\$ 691 million), with profits of around RMB 1 billion (US\$ 123 million). Twenty-six of the 35 were offshore companies registered in the British Virgin Islands (BVI), including 9 controlled by Zong Qinghou's daughter, Kelly Zong, an American citizen. In total, Zong Qinghou, his daughter and wife owned a majority interest in 29 of these 35 non-JVs.

Danone accused Wahaha of violating the “non-competition clause” in the JV contract, claiming that the non-JVs had sold products with the “Wahaha” trademark through the JVs' distribution channels. Wahaha was also alleged to have falsified documents to secure business licences for its non-JVs to produce and sell these products. Moreover, Zong Qinghou was accused of assigning products with high profit margins (such as Nutri-express and Smoothie) to the non-JVs, and products with low profit margins (such as Purified Water and Fruit-flavoured Milk) to the JVs.

Zong Qinghou fought back. He claimed that some non-JVs had existed before the JVs, implying Danone's “silent acknowledgement” of their products' legitimacy. He insisted that the “Wahaha” trademark was never transferred to the JVs—Wahaha was the sole legal owner and merely authorised the JVs to use it. Therefore, Wahaha could use the trademark without permission from anyone. Concerning the “non-competition clause”, he claimed that it was unfair because Danone had acquired companies that were Wahaha's direct competitors. Another accusation he made was that Danone contributed little to the JVs compared to Wahaha, so Wahaha had to develop new products in the non-JVs.

Acquisition of the Non-JVs

In early 2006, Danone started a series of negotiations with Wahaha to acquire the non-JVs. The issue was price. Danone accused Wahaha of contract violation and tried to force the price down. Finally, in December 2006, Danone's CEO, Franck Riboud, flew to China and signed an agreement with Zong Qinghou. The agreement stated that Danone would acquire a 51% stake in those 35 companies for a price of RMB 4 billion (US\$ 513 million). In Danone's view, it had already compromised by virtue of the losses it suffered from competing with the non-JVs.

A month later, however, Zong Qinghou wrote a letter to Danone rejecting its offer as the price was too low. He argued that the price of RMB 4 billion (US\$ 513 million) proposed by Danone was a gross underestimation of the non-JVs' real value since their assets were already RMB 5.6 billion (US\$ 691 million). In April 2007, he revealed to the Chinese media that Danone had threatened to take a major interest in Wahaha's non-JVs.

The incident would have been uncontroversial if it were only about two parties fighting over prices. What exacerbated the situation was the suspicion that Danone had sought to monopolise China's beverage industry. Until 2007, Danone had achieved around 10 buy-outs in China and controlled many leading Chinese brands. The China International Economics and Trade Arbitration Committee had conducted an “anti-monopoly” investigation of Danone.

Emmanuel Faber claimed, however, that Danone could not be a monopoly in the Chinese market: Danone owned only a 15% market share in China's beverage sector and faced competition from other foreign brands like Coca Cola and Pepsi. He also said that another important indication of monopoly was whether product prices rose dramatically. Almost all Danone products were stably priced—its drinking water price even dropped 50% between 2000 and 2007.

Dispute Settlement Regimes

Legal Battlefield

A series of brutal legal battles started on 29 May 2007, when Danone sued Wahaha for breach of the “non-competition clause” and violation of trademark use at the International Chamber of Commerce (ICC) Court of Arbitration in Stockholm, Sweden. The same day, Danone filed another case with the same organisation against Zong Qinghou, accusing him of having caused or induced non-Wahaha-Danone JVs to engage in activities in direct competition with the JVs. On 4 June 2007, Danone sued Zong Qinghou's wife (an American resident) and daughter (an American citizen) together with the companies they ran—Ever Maple Trading (Ever Maple) and Hangzhou Hongsheng Beverage (Hongsheng), both registered in the BVI—at the Supreme Court of California in Los Angeles for US\$ 100 million in damages.

To prevent Wahaha from transferring assets abroad, Danone filed claims against 10 companies in Samoa and the BVI it believed to be linked to Wahaha. In November 2007, local courts froze these companies' assets. KPMG, an international auditing firm, was appointed receiver for 8 companies registered in the BVI. After the ruling, KPMG wrote to related banks, accounting firms and administration offices, requesting them to freeze the assets of the defendants and hand in their company seals, accounts and files. The local branch of Hongsheng, one of the companies affected, sued KPMG in China for disturbing business operations. A Chinese lawyer commented that KPMG had “severely infringed upon the judicial sovereignty of China”.

Out of anger, Zong Qinghou resigned as the JVs' chairman on 5 June 2007. But he did not retreat from the legal confrontation with Danone. On 14 June 2007, Wahaha filed a claim against Danone with the Hangzhou Arbitration Committee to terminate the “Contract of Trademark Transfer” signed in 1996 and confirm Wahaha as the only legal owner of the “Wahaha” trademark. On 12 July 2007, Danone filed a counterclaim to transfer the trademark, arguing that Wahaha had not done so and had violated the contract of 1996. The Hangzhou Arbitration Committee made a final decision in December 2007, stating that the contract had expired in December 1999 and the trademark belonged to Wahaha.

Danone believed that the Hangzhou Arbitration Committee had made a wrong judgment and brought the case to the Hangzhou People's Intermediate Court. Suspecting that Wahaha had made a clandestine pact with the Arbitration Committee, Danone requested that the court review not only the case but also the Arbitration Committee's legality. Danone's letter to the court stated that: “The Hangzhou Arbitration Committee deliberately misinterpreted and

misapplied China's laws ... and needed to be thoroughly investigated". The court announced on 4 August 2008, however, that no procedural mistakes had been made and the original verdict was valid.

From May 2007 to September 2008, Danone filed over 30 lawsuits against Wahaha at 10 judicial institutions in China, the US, Sweden, France, Italy, the BVI, and Samoa, and suffered 12 defeats. On 5 January 2009, the ICC Court of Arbitration in Stockholm opened the case⁷. On 27 February 2009, the Supreme Court of California dismissed Danone's request, arguing that China was the most suitable venue for the lawsuit, but reserved the right to charge Zong Qinghou's wife and daughter with perjury.

Media Fanfare

Before the legal battles started, Wahaha already exposed its conflict with Danone to the Chinese media. According to Zong Qinghou, he had not intended to make the conflict public but had sent an "internal document" through a journalist with Xinhua News, the government press agency, to political leaders in the hope of getting their help. The "internal document" appeared on the Xinhua website on 3 April 2007. The news article "Wahaha Victim of Lowball Buyout by Danone" was soon cited by many Chinese websites, leading to heated debate among internet users. Zong Qinghou asked the government to shut down the relevant web pages but changed his mind two days later. He decided on a live talk on 8 April 2007 with netizens on Sina.com, a major Chinese web portal. During the talk, he described negotiations with Danone in detail, said he planned for the worst, and urged Chinese citizens to protect national brands.

From the beginning of the media exposure, Zong Qinghou played on nationalism, while Danone stressed the "contract spirit". The day after Zong Qinghou's web talk, Danone sent him a formal letter declaring legal action against Wahaha for unlawful competition and trademark use, with a grace period of 30 days. Meantime, it held two press conferences on 5 and 11 April, insisting that "all facts of the contract should be judged by the court" but expressing willingness to negotiate. After the defeat at the Hangzhou Arbitration Committee in December, Danone claimed that the legal procedure had been incorrect and the verdict invalid. Danone's lawyer at the Guilin People's Intermediate Court also told the media that the verdict used "non-legal" words like "morality" and "integrity", which betrayed a serious lack of professionalism. Danone suspected Chinese protectionism.

Danone's "contract spirit" won support from those among the Chinese elite who saw Wahaha as an old-fashioned family firm that did not respect rules and regulations, and abused nationalism in its own interests. This support for Danone did not last, however. Wahaha immediately launched an even larger media attack, framing itself as a victim of foreign monopoly.

Zong Qinghou argued that the "contract spirit" called for equality and fairness, but that Danone had treated its Chinese counterparts neither equally nor fairly. Many of Wahaha's competitors stood out to support Zong Qinghou. Danone's disputes with other Chinese partners also came to light. Robust, another leading Chinese beverage company taken over by

⁷ As of 1 April 2009, the hearing at the ICC Court of Arbitration was still in progress.

Danone, said that Danone “is a company with confusing management—without clear market direction or strategy ... They failed to develop any products for years ... And the managers just sit in their office, spending their money in vain”. Meantime, all of Wahaha’s employees and 1,000 distributors jointly announced that they would resist “forced acquisition”. One employee said: “Danone is out for money. Don’t rely on them to bring core technology or cooperate to build a stronger national brand”. Accused of playing the nationalist card, Zong Qinghou retorted that Danone had no right to say so—when Danone faced a takeover bid from Pepsi, French people also strongly opposed it.

Amid intense fighting over monopoly and protectionism, the two parties also made personal attacks. Danone accused Zong Qinghou of tax evasion, appropriating public assets, forging documents and bribing legal institutions; Zong Qinghou accused Emmanuel Faber and Qin Peng, the director of Danone China, of tax evasion, embezzlement, slander and invasion of privacy. According to Zong Qinghou, Danone hired private detectives to keep him under round-the-clock surveillance.

Although Danone’s PR agency, Ogilvy, repeatedly told the Chinese media to distinguish good from bad information about Danone, the French multinational lost the media war in China. It was generally perceived by the Chinese public as a hypocritical, bullying, malicious imperialist, while Wahaha was hailed as a brave patriotic fighter. According to an opinion poll conducted by a Chinese website, 90% of Chinese netizens strongly opposed Danone’s acquisition of Wahaha, and many Chinese consumers considered boycotting Danone products. The official *People’s Daily* said stridently: “Danone is doomed to failure in the Chinese market, just like Napoleon at Waterloo”.

Government Mediation

On 23 July 2007, the French ambassador to China openly expressed concern: “Both the French and Chinese governments are paying close attention to the development of the Danone-Wahaha dispute. The French government hopes that the two companies can reach an agreement soon”.

The Chinese government, however, made no public speech. The Ministry of Commerce remarked only that it would strictly follow Chinese law regarding foreign mergers and acquisitions.

Between 26 and 28 November 2007, French President Sarkozy visited China. At the official welcome dinner on the 25th, he mentioned the Danone-Wahaha dispute. During official talks with Chinese counterparts, he brought this topic up again and again. Consequently, the two governments called on both companies to find an amicable solution. Under political pressure, on 21 December 2007 Danone and Wahaha issued a joint statement promising to end their antagonism, suspend legal confrontation and resume peaceful negotiations.

The truce was only temporary, however. At the beginning of 2008, the two companies started fighting again when negotiating a merger followed by an IPO. In March 2008, they moved to negotiate a new solution, but Wahaha’s acquisition of Danone’s 51% stake in the JVs also ended in recrimination. Thus far, no solution has been reached. Some think the dispute will be resolved by the JVs announcing bankruptcy and letting the court divide the assets.

Zong Qinghou and Wahaha

Born in Hangzhou (1945), Zong Qinghou went to work on a state farm after middle school. In 1978, he returned home and replaced his mother upon her retirement as an employee at a local primary school. In 1987, he was put in charge of the sales department of a school-owned enterprise. Together with two retired teachers, he borrowed RMB 140,000 (US\$ 37,838) from the local education bureau and sold soft drinks, popsicles, ice cream and stationery on commission.

In 1988, he began to produce and sell liquid food supplements based on a brand-new formula aimed at children. A year later, he founded the Wahaha Nutritional Food Factory and launched Wahaha Nutritional Tonic for Children, which filled a gap in the Chinese market. By the end of 1990, the company's annual revenue had reached RMB 100 million (US\$ 21.3 million) and was viewed as an "economic miracle rising from a school campus".

In 1991, encouraged by the Hangzhou government, Zong's company acquired a bankrupt state-owned enterprise (SOE) for RMB 80 million (US\$ 15.1 million) and formed Hangzhou Wahaha Group. A year later, Wahaha formed its first JV with a South Korea-based company. In 1994, Wahaha began to expand inland to the West of China through acquisition. Subsequently, it set up many new companies across the country, especially in poor rural areas. By 2007, it had established over 50 subsidiaries.

In 1996, Wahaha formed the JV partnership with Danone. Wahaha Purified Water became the JV's leading product. Two years later, Wahaha launched the first Chinese cola—Future Cola—and gained a dominant market share in rural China where Coca-Cola and Pepsi had little presence.

In 1999, the Hangzhou municipal government approved of Zong Qinghou's plan to restructure Wahaha's ownership. By the end of 2003, Wahaha was transformed from a wholly SOE to a company group owned by Zong Qinghou and his employees. Zong held the majority of shares, and the union held the rest on behalf of the individual employees.

Over about two decades, Wahaha had grown into the largest beverage company in China, and the 5th largest in the world, after Coca-Cola, Pepsi, Cadbury and Gatorade. It was highly valued by the Chinese government. Zong Qinghou was a Communist Party member and a delegate to the National People's Congress.

Danone and Its Strategy

Founded in Paris in 1966, Danone was originally a family firm manufacturing glass. After a failed takeover attempt for rival Saint-Gobain, CEO Antoine Riboud decided to move the company into the food industry. In the 1970s, Danone became one of Europe's leading food companies through a series of acquisitions and mergers. In 1981, it bought Dannon USA and

since then has expanded worldwide. Danone sped up expansion into its global emerging markets in 1994 as a result of declining sales in its old bases—France, Italy and Spain.

Compared with its rivals—Nestlé and Unilever—Danone had a lower international executive profile; it was mainly French. In 1996, Franck Riboud took over his father's position and became Danone's new CEO. Under Riboud junior, the company continued to pursue its focus on the three main products—fresh dairy, beverages and biscuits and cereals—and divested itself of several non-core activities. By 2006, Danone's total sales had reached EUR 14 billion (US\$ 16.8 billion), about 56% derived from dairy, 28% from beverages and 16% from biscuits and cereals.

Long before Danone entered China in 1987, Riboud senior had visited the country in 1983, followed by a market research team the next year. Three years later, Danone founded its first entity in China, Danone Yogurt Company. In 1996, when it set up the JVs with Wahaha, Danone also bought a majority stake in Wuhan Dongxihu Beer. In 2000, despite strong opposition from Wahaha, Danone acquired a 92% stake in Rubust, Wahaha's closest rival. Between 2001 and 2006, Danone bought sizable interests in most of China's leading beverage and dairy companies—Shenzhen Yili Healthy Drinks, Bright Dairy, Meiling Aquarius and Huiyuan Juice—and formed a 49% JV with Mengniu Dairy.

Meantime, Danone applied the same strategy worldwide, chiefly in Eastern Europe, South Asia and South America. By 2006, it had expanded to over 120 countries: Europe generated 61% of its annual sales, Asia 17% and the rest 22%. In the beverage sector, Asia surpassed Europe (37%) leading the 2006 sales (51%). Wahaha was not the only foreign partner Danone had legal problems with: the French giant was also involved in a high-profile dispute with India's Britannia Biscuits.

Despite its M&A strategy, Danone itself was an attractive takeover target for competitors due to its narrow focus and relatively small size. In July 2005, Danone's share price rose by 20% in two weeks on rumours of a bid by Pepsi. The French government soon stepped in, drafting a law to protect companies in "strategic industries" from takeover. This has been dubbed the "Danone Law".

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Appendix 1

Chronology of Major Events

29 February 1996	The “Contract of Joint Venture” and “Contract of Trademark Transfer” were signed by Wahaha and Jinjia.
28 March 1996	First 5 Danone-Wahaha JVs were founded.
April 1996	Wahaha submitted a trademark transfer application to China Trademark Office.
September 1997	Wahaha submitted the trademark transfer application to China Trademark Office again.
April 1998	Peregrine sold its entire stake in Jinjia to Danone.
1999	Danone and Wahaha signed the informal “Contract of Trademark Use” to replace the formal “Contract of Trademark Transfer”.
October 2005	Danone and Wahaha signed “Amended Agreement No.1” to supplement the “Contract of Trademark Use”.
9 December 2006	Danone and Wahaha signed an agreement for Danone to acquire 51% of Wahaha’s non-JVs.
January 2007	Zong Qinghou rejected the acquisition agreement.
3 April 2007	Xinhua News published “Wahaha Victim of Lowball Buyout by Danone”.
8 April 2007	Zong Qinghou visited sina.com web chatroom.
29 May 2007	Danone sued Wahaha at the ICC Court of Arbitration in Stockholm.
4 June 2007	Danone sued Ever Maple and Hongsheng, together with their owners—Zong’s wife and daughter—at the Supreme Court of California.
5 June 2007	Zong resigned as the JV chairman.
14 June 2007	Wahaha filed a claim with the Hangzhou Arbitration Committee to terminate the “Contract Trademark Transfer”.
12 July 2007	Danone filed a counterclaim with the Hangzhou Arbitration Committee to demand a transfer of the trademark.
6 December 2007	Hangzhou Arbitration Committee declared the trademark belonged to Wahaha.
26-28 Nov 2007	French President Sarkozy visited China and the two governments called on both companies to find an amicable solution.
21 December 2007	Danone and Wahaha issued a joint statement agreeing to resume peaceful negotiations.
January 2008	Danone and Wahaha started quarrels again.
5 January 2009	The ICC Court of Arbitration in Stockholm started its hearing.
27 February 2009	The Supreme Court of California partially dismissed Danone’s lawsuit.

Appendix 2

Chronology of Major Lawsuits

29 May 2007	Danone sued Wahaha at the ICC Court of Arbitration in Stockholm with 8 claims related to the breach of non-competition clause and the violation of trademark use.
29 May 2007	Danone sued Zong Qinghou at the ICC Court of Arbitration for having caused or induced Wahaha non-JVs to engage in activities in direct competition with the JVs.
4 June 2007	Danone sued Ever Maple and Hongsheng at the Supreme Court of California for US\$ 100 million in damages.
4 June 2007	Danone sued Kelly Zong (Zong's daughter) and Shi Youzhen (Zong's wife) at the Supreme Court of California for illegitimate interference with JV operation.
14 June 2007	Wahaha sued Danone at the Hangzhou Arbitration Committee requesting to terminate the "Contract of Trademark Transfer".
12 July 2007	Danone filed a counterclaim at the Hangzhou Arbitration Committee requesting to grant the "Contract of Trademark Transfer".
July 2007	Wahaha sued three Danone directors—Emmanuel Faber, Qin Peng, and François Caquelin (Financial Director)—at the Guilin Intermediate Court for engaging in activities with over 20 companies that were in direct competition with the JVs.
12 November 2007	Guilin Intermediate Court ruled in favour of Wahaha.
10 December 2007	Hangzhou Arbitration Committee ruled in favour of Wahaha.
21 December 2007	The People's Intermediate Court of the 8th Agricultural Division of Xinjiang Production and Construction Infantry ruled in favour of Wahaha against Danone's claim that Wahaha had harmed the JVs' interests.
25 June 2008	The Shenyang Intermediate Court ruled that Qin Peng had violated the non-competition clause and removed him from the post of Shenyang Wahaha Director.
4 August 2008	The Hangzhou Intermediate Court rejected Danone's claim and confirmed the final ruling of Hangzhou Arbitration Commission was effective.
28 August 2008	The Xinxiang Intermediate Court and the Shenyang Intermediate Court dismissed Danone's allegation of Wahaha's unfair competition.
5 January 2009	The ICC Court of Arbitration in Stockholm started its hearing.
27 February 2009	The Supreme Court of California partially dismissed Danone's lawsuit, but reserved the right to charge Zong Qinghou's wife and daughter with perjury.

Appendix 3

Media Quotes

“If Danone doesn’t bring technology, there will be no new yogurt products. What is all the hustle about?”
Yang Wenjun, President of Mengjiu Dairy

“Mr. Zong protected a national brand and fought against the monopoly of the Chinese beverage industry by multinationals. At the same time, he actively proposed legislation to restrict foreigners from acquiring national brands. I fully support him.”

Ye Yongyan, Chairman of Jianlibao Group

“The dispute has erupted amid signs of concern in China that foreign firms may in some cases be buying into Chinese industries too cheaply.”
Reuters

“In the dispute with Mr. Zong, Danone has preferred to negotiate. The measure taken has gradually led up to filing a lawsuit in California. Danone never responded to the verbal attacks made in the press by Mr. Zong, especially on the subject of patriotism. In his crusade against Danone, Mr. Zong seems to have played a very personal card, to the detriment of his partners.”
Société Générale

“When the JVs expanded from 5 to 39 companies, none of Danone’s directors or executives had ever visited these companies. Perhaps they do not even know where the companies are. Chinese directors from Wahaha have always welcomed the arrival of Danone’s delegations. After Mr. Zong resigned from his position, Wahaha requested Danone to fulfil its duty as the biggest shareholder and expected Danone to send its managers to oversee production and sales. But to this day, Danone still has not done so. Chinese directors have lost faith in Danone completely.”
People’s Daily

“Mr. Zong’s connection of a pure business dispute with nationalism resulted in the international business community questioning China’s investment environment and the credibility of China’s entrepreneurs. This has seriously damaged China and their enterprises’ image.”
Danone’s Open Letter

“It is very hard to work with people who do not understand the Chinese market and culture. They only want to take the profits and benefits instead of taking on risks and carrying out their responsibilities.”
Wahaha’s Open Letter

(Main source: “Danone & Wahaha: A Bitter-Sweet Partnership”. International Institute for Management Development: 2008.)

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