

ADMINISTRATIVE PANEL DECISION

HOLDING LE DUFF “HLD” v. Sandra Bravo, Bravo Inc

Case No. D2023-0505

1. The Parties

The Complainant is HOLDING LE DUFF “HLD”, France, represented by Scan Avocats AARPI, France.

The Respondent is Sandra Bravo, Bravo Inc, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <groupselelduff.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2023. On February 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 4, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 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 February 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on March 20, 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

The Complainant known as “Group LE DUFF” was established in France in 1976. It specializes in restaurants and bakeries worldwide through several brands among which “Brioche Dorée”, “Del Arte”, “Fournil de Pierre”, etc.

The Complainant is the registered owner of several trademarks worldwide for GROUPE LE DUFF and LE DUFF, for example:

- European Union trademark registration GROUPE LE DUFF No 001146851 registered on June 20, 2000, in classes 29, 30, 32, 35, and 42.
- International trademark GROUPE LE DUFF No 1390842 registered on October 2, 2017, in classes 16, 29, 30, 32, 35, 36, 38, 39, 41, 42, and 43, designating the United States.
- European trademark LE DUFF No 010685816 registered on July 31, 2012, in classes 29, 30, 31, 32, 35, 41, 43, and 44.

The Complainant also owns domain names which are used for its official web presence such as <groupeleduff.com> which was registered on October 22, 2003.

The disputed domain name was registered on November 17, 2022, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's well-known trademarks GROUPE LE DUFF and LE DUFF, since it incorporates the Complainant's aforesaid trademarks and company name in entirety. The addition of the sixth letter “s” is hardly noticeable thus irrelevant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent is not known under the name GROUPE LE DUFF and LE DUFF; (ii) the Complainant has never given any authorization to any third party to register or to use its GROUPE LE DUFF and LE DUFF trademarks; (iii) the Respondent is not in any way related to the Complainant's business and does not carry out any activity for or has any business with it; (iv) the Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the prior GROUPE LE DUFF and LE DUFF trademarks or to register for any domain name incorporating these prior trademarks, nor has the Complainant acquiesced in any way to such use or registration of its trademarks by the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and was being used in bad faith. The Complainant's GROUPE LE DUFF and LE DUFF trademarks are well known and have been widely used by the Complainant since 1976. The Complainant further alleges that the passive holding of the disputed domain name constitutes bad faith use considering the circumstances, particularly since the Respondent has no justification whatsoever in holding the disputed domain name (lack of legitimate interests).

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint 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 a complainant must prove each of the following:

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

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Complainant has shown to have trademark rights in LE DUFF and GROUPE LE DUFF in many jurisdictions including in the United States where the Respondent is based.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademarks LE DUFF and GROUPE LE DUFF since it contains these marks in their entirety. The addition of the term "groupse" does not prevent the trademark LE DUFF from being recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The misspelling of the trademark GROUPE LE DUFF (*i.e.*, "groupse" instead of "groupe") does not prevent a finding of confusing similarity. See section 1.9 of the [WIPO Overview 3.0](#).

Furthermore, the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or

- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name, being reminded that the disputed domain name is inactive.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in the proceeding.

As already stated before, nothing is contained in the case file which would show that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or that the Respondent has any rights or legitimate interests in the disputed domain name. The disputed domain name resolves to an inactive website.

Furthermore, the Panel finds that the subtle misspelling of the Complainant's trademark GROUPE LE DUFF and domain name <groupeleduff.com> can also impersonate the Complainant, as there is a risk that Internet users will not notice the difference between such misspelling and the Complainant's trademark and domain name. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (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 online 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 respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and is being used in bad faith.

Given the circumstances of the case, including the distinctive nature of the Complainant's trademarks LE DUFF and GROUPE LE DUFF which are widely used by the Complainant, including on the Internet, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks, including GROUPE LE DUFF and LE DUFF.

Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name that the Respondent chose to register could attract Internet users in a manner that is likely to create confusion for such users. As mentioned earlier, the Panel finds that there is a risk that Internet users will not notice the subtle misspelling of the Complainant's trademark GROUPE LE DUFF and domain name <groupeleduff.com>.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name currently resolves to an inactive website.

It has been established in many UDRP cases that passive holding under the appropriate circumstances falls within the concept of a domain name being used in bad faith. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain name will be considered to be in bad faith: "[w]hile 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 submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademarks of the Complainant are widely used and known. The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible.

The silence of the Respondent in the proceeding is an additional evidence of bad faith in these circumstances.

Moreover, previous UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

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 <groupseleduff.com> be transferred to the Complainant.

Theda König Horowicz

Theda König Horowicz

Sole Panelist

Date: April 12, 2023