

ADMINISTRATIVE PANEL DECISION

Holding Le Duff "HLD" v. Jean-Marie Lachance
Case No. D2022-1771

1. The Parties

The Complainant is Holding Le Duff "HLD", France, represented by Scan Avocats AARPI, France.

The Respondent is Jean-Marie Lachance, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <briochedoree-group.com> is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 17, 2022. On May 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 2022, 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 May 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 21, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on June 23, 2022. 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 is a French company established in 1976, which operates worldwide under different brands, in the field of restaurants and bakeries. Through its BRIOCHE DOREE trademark, the Complainant is the leader of French-style bakery café. There are currently 443 restaurants and bakeries, serving 270,000 customers per day under the BRIOCHE DOREE trademark. The Complainant operates in France and abroad, through a franchise network employing more than 35,420 people. As such, the BRIOCHE DOREE franchise has gained recognition as also evidenced by numerous press articles, and the nomination as “Best Franchise of the Year” in 2019-2020.

The Complainant is the owner of numerous BRIOCHE DOREE trademarks that have been continuously used in commerce since their registration.

Trademark	Country	Type of Mark	Reg. Number	Priority/Appl./Reg. Dates	Classes
	Various	International	512743	June 15, 1987	30, 42
	EU	EUTM	1424290	December 15, 1999 (renewed)	30, 42
	France	National	3256946	November 14, 2003 (renewed)	29, 30, 43
	France	National	3388775	October 27, 2005 (renewed)	29, 30, 43
	Various	International	909146	November 17, 2006 (renewed)	29, 30, 43
	France	National	4103952	July 8, 2014	29, 30, 43

The Complainant also owns various <briochedoree> and <brioche-doree> domain names with generic Top-Level Domain (“gTLD”) extensions, such as “.com”, and various country code Top-Level Domain extensions, such as “.fr”.

The disputed domain name was registered on December 21, 2021, and redirects to the Complainant’s official website at “www.briochedoree.fr”.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to its BRIOCHE DOREE trademark since it reproduces the word element of the Complainant's trademark. The addition of the suffix "-group" cannot prevent confusing similarity since "group" is a descriptive term.

The Complainant further contends that the Respondent does not own rights or legitimate interests in respect of the disputed domain name since, (i) the Complainant never authorized the Respondent to register or use its BRIOCHE DOREE trademark, (ii) the Complainant does not know the Respondent and is not undertaking with the Respondent any business or other kind of relationship, and (iii) the Respondent is using the disputed domain name to redirect to the Complainant's website without any kind of authorization.

The Complainant maintains that the disputed domain name has been registered and is being used in bad faith. As to registration in bad faith, the Complainant argues that its BRIOCHE DOREE trademark enjoys strong reputation in the restaurant and bakery fields and that a search on Google under the keyword "brioche doree" provides results only related to the Complainant. In addition, the disputed domain name redirects to the Complainant's website. All the above is clear evidence of the fact that the Respondent registered the disputed domain name having the Complainant's trademark in mind.

As to use in bad faith, the Complainant points out that the Respondent is trying to impersonate the Complainant through the redirection of the disputed domain name to the Complainant's official website, and that the Respondent has configured the MX servers of the disputed domain name, thus making it possible to send and receive emails under the disputed domain name. Therefore, the Respondent's behavior is capable of misleading Internet users who are looking for the Complainant as to the origin of the disputed domain name, or the sponsorship or endorsement by the Complainant of the same.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has successfully demonstrated that it owns various registrations for the figurative trademark BRIOCHE DOREE and that these registrations predate the disputed domain name. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.10. The disputed domain name incorporates the word part of the Complainant's trademark in its entirety (*i.e.*, "brioche doree") followed by a hyphen and the term "group", which does not prevent a finding of confusing similarity.

According to section 1.8 of the [WIPO Overview 3.0](#) "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Therefore, the Panel is satisfied that the first condition under the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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 trademark 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 trademark or service mark at issue.

The Complainant states that it does not know the Respondent, that it is not engaging in any business with the Respondent, and that it never authorized the Respondent to incorporate its trademark in a domain name.

The Respondent did not reply to the Complainant's statements and therefore failed to put forward arguments in support of its rights or legitimate interests in the disputed domain name.

The Panel cannot otherwise find rights or legitimate interests of the Respondent in the disputed domain name. Already the composition of the disputed domain name, which reflects the Complainant's trademark followed by a generic term, cannot constitute fair use of it as it impersonates the Complainant, or suggests sponsorship or endorsement by the Complainant (see section 2.5.1. of the [WIPO Overview 3.0](#)). In addition, the fact that the disputed domain name redirects to the Complainant's website is likely to mislead Internet users into believing that the disputed domain name is connected to the Complainant's business (see among others, *Mandarin Oriental Services B.V. v. Domain Administrator, Matama*, WIPO Case No. [D2017-0615](#); *Bureau Veritas v. Xavier Garreau*, WIPO Case No. [D2017-1570](#)).

In light of the foregoing and absent any contrary argument by the Respondent, the Panel finds that the Complainant has at least made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Therefore, the Panel is satisfied that also the second condition under the Policy is met.

C. Registered and Used in Bad Faith

The Complainant states that its trademark enjoys reputation. From the documentation filed by the Complainant in support of its statement, it appears that the use of the BRIOCHE DOREE trademark is longstanding, significant, and widespread. It also appears that the trademark BRIOCHE DOREE is uniquely associated with the Complainant and that BRIOCHE DOREE is often cited in press articles. Furthermore, previous UDRP Panels have already positively assessed the reputation of BRIOCHE DOREE (see *Holding Le Duff "HLD" v. Lahcen Ait Imijja*, WIPO Case No. [D2015-0858](#); *Holding Le Duff "HLD" v. Sarah Hampton*, WIPO Case No. [DCO2021-0007](#), etc.). For all these reasons, the Panel agrees that the trademark BRIOCHE DOREE enjoys reputation.

In light of the above, it is very likely that when the Respondent registered the disputed domain name, it was well aware of the Complainant and of its trademark. The fact that the disputed domain name is used to redirect to the Complainant's website is a further indication of the fact that the Respondent targeted the Complainant and its trademark when it decided to register a confusingly similar domain name. The Panel further notes that the name of the Respondent is French, and that France is the country of origin of the Complainant and the country where the Complainant uses mostly its trademark.

The registration of a domain name, confusingly similar to a third party's well-known trademark, without authorization, or rights or legitimate interests in the domain name, can create a presumption of registration in bad faith by itself.

As far as use in bad faith is concerned, the Panel notes that the disputed domain name redirects to the Complainant's website and that the Respondent has set up MX-records allowing the Respondent to use the disputed domain name for sending and receiving emails. Therefore, the Respondent is trying to impersonate the Complainant through the disputed domain name, and the use of the disputed domain name is likely to mislead Internet users searching for the Complaint into believing that the disputed domain name originates from the Complainant, or implies an affiliation with the Complainant. Similarly, panels have found that a respondent redirecting a domain name to the complainant's website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant. See section 3.1.4 of the [WIPO Overview 3.0](#). The establishment of MX records for a domain name points towards a potential active use of it, which, in the circumstances of this case, affirms the Respondent's bad faith. Furthermore, given the Complainant's reputation in its trademark and the Respondent's failure to submit a Response to the Complaint, it is not possible to conceive any good faith use of the disputed domain name.

For the reasons expressed above, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

Therefore, also the third and last condition under the Policy is met.

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, <briochedoree-group.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: July 7, 2022