

## **ADMINISTRATIVE PANEL DECISION**

Breedon Group plc. v. Breedon construction, breedonsgroup  
Case No. D2023-3067

### **1. The Parties**

The Complainant is Breedon Group plc., United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Breedon construction, breedonsgroup, India.

### **2. The Domain Name and Registrar**

The disputed domain name <breedonsgroup.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 21, 2023.

The Center verified that the Complaint together with the amended 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 August 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 23, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on August 31, 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 is a construction materials group founded in 2010 and is listed on the London Stock Exchange. With around 3,700 employees located across the British Isles, the Complainant generated an annual revenue of GBP 1.4 billion in 2022 and operates from its main website “www.breedongroup.com”. The Complainant owns numerous trade mark registrations for its BREEDON mark, including United Kingdom Trade Mark Registration No. UK00003558021 BREEDON (word) in classes 6, 7, 12, 19, 37 and 39, with a registration date of April 23, 2021.

The Domain Name was registered on November 14, 2022 and resolves to a website offering the services of a website building platform called “Zoho”.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its BREEDON mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith in order to take advantage of the Complainant's reputation for the Respondent's commercial gain.

##### B. Respondent

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

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

The Complainant plainly has registered rights in a mark, BREEDON, that is wholly contained within the Domain Name, remaining recognisable within it. Where a domain name incorporates the entirety of a trade mark, the domain name will normally be considered confusingly similar to that mark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

##### B. Rights or Legitimate Interests

The Complainant's evidence establishes that its mark was well-known and registered long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark, and nearly identical to the Complainant's well-known corporate name, and the Complainant has certified that the Domain Name is unauthorised by it.

For the reasons discussed in relation to bad faith below, it is likely that the Domain Name was registered in order to take advantage of the Complainant's reputation. The Respondent's registration and usage of the Domain Name in these circumstances cannot represent a *bona fide* offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests (*Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#)). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

### C. Registered and Used in Bad Faith

UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term, as in this case) to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

The Complainant's well-known BREEDON mark has no generic or descriptive meaning that the Respondent might in good faith have sought to adopt, and the mark is highly specific to the Complainant. Internet searches for the Complainant's mark, its corporate name, as well as for the Domain Name return results overwhelmingly relating to the Complainant. The Domain Name is almost identical to the Complainant's well-known corporate name. It is therefore difficult to conceive of any good faith use of the Domain Name. This indicates bad faith under paragraph 4(b)(iv) of the Policy ([WIPO Overview 3.0](#) at section 3.1.4).

Mail exchange (MX) records are set for the Domain Name, enabling use for email. This raises the risk of email-based fraud (*Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#)). The Panel notes that upon the registration of the Domain Name the Respondent provided as registrant's name and organization Breedon construction, breedonsgroup, and the Panel finds it likely that the Respondent would have been aware of the risk of affiliation of the Domain Name with the Complainant (due to the registrant's details referring to the Complainant's corporate name and activity). The Panel has independently established that at least one security vendor has flagged the Domain Name for malicious activity, which is an indicator of bad faith (*The Commissioners for HM Revenue and Customs v. WhoisGuard Protected, WhoisGuard, Inc. / Hoshyar Marshall*, WIPO Case No. [D2021-0344](#)).

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

On balance, and considering that the Domain Name has been used for a commercial service, it is likely that the Respondent registered the Domain Name in order to take advantage of the Complainant's reputation for the Respondent's commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Complainant has satisfied paragraph 4(a)(iii) of the Policy.

### 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 Domain Name, <breedonsgroup.com>, be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: September 13, 2023