

ADMINISTRATIVE PANEL DECISION

BONPOINT v. medeni unlu

Case No. D2024-2369

1. The Parties

The Complainant is BONPOINT, France, represented by Cabinet Germain & Maureau, France.

The Respondent is medeni unlu, Türkiye.

2. The Domain Names and Registrar

The disputed domain names <bonpointamourtoujours.com>, <bonpointauzenith.com>, and <bonpointbaladenocturne.com> are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (“Super Privacy Service LTD c/o Dynadot”) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 2024, 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 June 12, 2024.

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 June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on July 12, 2024. 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 active in the field of luxury clothing for babies and children, based in Paris, France. The Complainant also offers for sale cosmetics and perfumes. It opened its first shop in Paris in 1975 and now operates 120 stores across 30 countries.

The Complainant owns inter alia the following registrations for or including BONPOINT:

- International trademark registration for BONPOINT no. 1064862 registered on December 28, 2010, in class 3 and 25;
- French trademark registration for BONPOINT AMOUR TOUJOURS no. 5014661 registered on December 15, 2023 in class 3. An application for this trademark has been filed with the European Union Intellectual Property Office (EUIPO) on April 11, 2024 and is currently pending under no. 019012309;
- French registration for BONPOINT AU ZENITH no. 5014670 registered on December 15, 2023 in class 3. An application for this trademark has been filed with the EUIPO April 11, 2024 and is currently pending under no. 019012310;
- French registration for BONPOINT BALADE NOCTURNE no. 5014681 registered on December 15, 2023 in class 3. An application for this trademark has filed with the EUIPO on April 11, 2024 and is currently pending under no.019012311.

The Complainant also owns and operates an official website under the following domain names:

- <bonpoint.com> reserved on November 3, 1998;
- <bonpoint.fr> reserved on July 8, 1999;
- <bonpoint.eu> reserved on June 18, 2006 ;
- <bonpoint.cn> reserved on February 23, 2006.

The disputed domain names, namely:

- <bonpointamourtoujours.com> ;
- <bonpointauzenith.com> ;
- <bonpointbaladenocturne.com> ;

were all registered on April 11, 2024.

Each disputed domain name resolves to a page on the “dan.com” platform dedicated to buying and selling domain names. The price for sale indicated for each disputed domain name is USD 2,850.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its registered trademarks as it captures the entirety of its well-known trademark BONPOINT with the mere adjunction of

generic terms but also identically reproduce its recent trademarks for BONPOINT AMOUR TOUJOURS, BONPOINT AU ZENITH and BONPOINT BALADE NOCTURNE.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain names for the following reasons: (i) the Respondent has no business affiliation with the Complainant and (ii) the Respondent has no permission to use the Complainant's trademarks in the disputed domain names.

Finally, according to the Complainant, the Respondent was undoubtedly aware of its BONPOINT trademark as well as its BONPOINT AMOUR TOUJOURS, BONPOINT AU ZENITH and BONPOINT BALADE NOCTURNE French registrations and European Union (EU) applications, as the disputed domain names were registered on the exact same day as the Complainant filed its EU trademark applications. The disputed domain names were accordingly registered in bad faith. Based on its own research and analysis, the Complainant opines that the disputed domain names were registered as part of a large cybersquatting scheme targeting new EU trademark filings on an industrial scale. This scheme involves the Registrar and "dan.com" platform.

The Complainant further asserts that the Respondent is using the disputed domain names for the purpose of selling them at a price that is significantly higher than the registration costs, a behavior amounting to registration and use in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) 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) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the marks BONPOINT AMOUR TOUJOURS, BONPOINT AU ZENITH and BONPOINT BALADE NOCTURNE is reproduced within the respective disputed domain names. Accordingly, the disputed domain names are identical to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the information submitted by the Complainant, the Complainant has not granted the Respondent authorization to use its trademarks within the disputed domain names. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain names.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant has established that its BONPOINT trademark has been well known internationally for several decades. In addition, the record also shows that the disputed domain names were registered on the same day, namely April 11, 2024, as the Complainant filed EU trademark applications under priority of its corresponding French registrations for the trademarks BONPOINT AMOUR TOUJOURS, BONPOINT AU ZENITH and BONPOINT BALADE NOCTURNE.

Against this background, it is completely unlikely that the Respondent registered the disputed domain names without prior knowledge of the Complainant’s trademarks. On the contrary, it is likely that the Respondent monitored EU applications and registered corresponding domain names as soon as the applications were online.

Furthermore, the Complainant has demonstrated that the disputed domain names were offered for sale on a market place dedicated to the sale of domain names, for the amount of USD 2,850 each. Accordingly, the Panel finds on the balance of probabilities that the Respondent has registered the disputed domain names primarily for the purpose of selling, renting, or otherwise transferring the disputed domain names to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of his documented out-of-pocket costs directly related to the domain names. The Panel, therefore, finds that bad faith has been demonstrated under paragraph 4(b)(i) of the Policy.

Finally, based on the evidence on the record, the Panel accepts as likely that the Respondent (or an entity to which the Respondent belongs or is affiliated) has engaged in a pattern of registering domain names identical or confusingly similar to European Union trademark applications, thus preventing rightful owners to reflect their trademark in a corresponding domain name. This behavior falls under paragraph 4(b)(ii) of the Policy.

The Panel finds that the Complainant has established the third element 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 disputed domain names <bonpointamourjours.com>, <bonpointauzenith.com> and <bonpointbaladenocturne.com> be transferred to the Complainant.

/Anne-Virginie La Spada/

Anne-Virginie La Spada

Sole Panelist

Date: July 26, 2024