

ADMINISTRATIVE PANEL DECISION

Samyang Foods Inc. v. Wout van Lesdonk
Case No. D2024-5068

1. The Parties

The Complainant is Samyang Foods Inc., Republic of Korea, represented by Dinsmore & Shohl LLP, United States of America ("United States").

The Respondent is Wout van Lesdonk, Netherlands (Kingdom of the).

2. The Domain Name and Registrar

The disputed domain name <thebuldakramen.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 9, 2024. On December 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent ("Withheld for Privacy Purposes") and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 December 13, 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 December 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2025.

The Center appointed John Swinson as the sole panelist in this matter on January 16, 2025. 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 corporation from the Republic of Korea. The Complainant sells ramen products in the Republic of Korea and in approximately 90 countries.

One of the Complainant's products is BULDAK ramen, which is a spicy ramen. This brand is also used for noodle dishes, rice dishes, sauces and the like.

According to Wikipedia, BULDAK (Korean: 불닭볶음면) means "fire chicken" and this instant noodle product is not only popular in the Republic of Korea but also worldwide, and is the Complainant's best-selling product, with 4 billion cumulative sales by August 2022.

The Complainant owns several trademark registrations for BULDAK, including United States Registration No. 6,594,452 for BULDAK in stylized letters, that has a registration date of December 21, 2021.

The disputed domain name was registered on May 26, 2024.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar's records, the Respondent has an address in Amsterdam.

The disputed domain name resolves to a website advertising the Complainant's ramen products. The headline of the website stated "BULDAK" displayed in the same stylized letters as in the Complainant's trademark registrations. Under each photograph of the Complainant's product is a green button with the words "Check Price". When selecting the "Check Price" button, the user is redirected to the Amazon shopping website. The URL for the referring link includes an Amazon associates program ID of "mr_donotredirect". The website at the disputed domain name includes the following text:

"The thebuldakramen.com participates in the Amazon Services LLC Associates Program, an affiliate marketing initiative that allows websites to earn commission by advertising and linking to Amazon.com"

The website at the disputed domain name includes a contract address in Atlantic City, United States. The "About Us" page includes the following: "Welcome to Buldak Ramen, where culinary excellence meets fiery passion in every bowl. We are dedicated to bringing you the authentic taste of South Korea's beloved Fire Chicken Ramen, known for its bold flavors and intense heat level." The "terms and conditions" page includes the following: "Unless otherwise stated, Buldak Ramen and/or its licensors own the intellectual property rights for all material on this website."

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 name.

Notably, the Complainant contends that: (a) the Respondent almost certainly had actual knowledge of Complainant's rights in the BULDAK trademark at the time he registered the disputed domain name; (b) the Respondent is impersonating Complainant through the websites at the disputed domain name; (c) the

Respondent likely is using the disputed domain name to attract internet users to the Respondent's website in a manner likely enable Respondent to trade off the Complainant's trademark and reputation, and (d) the Respondent has used a privacy protection service in the registration of the disputed domain name in order to conceal his identity.

The Complainant submits that these circumstances, taken together with the fact that Respondent has no legitimate interests in the disputed domain name, combine to demonstrate that the Respondent has acted in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

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

The onus of proving these elements is on the Complainant.

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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "the" and "ramen", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 name. 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 name such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent’s use of the disputed domain name on a website that uses the Complainant’s trademark to then redirect users to the Amazon website where the Respondent receives a commission for such referral, does not amount to bona fide offering of goods or services. *Estee Lauder Inc., Estee Lauder Cosmetics Ltd, Makeup Art Cosmetics Inc. v. Domain Ecommerce, Tolik Ebolik, TolikBinc*, WIPO Case No. [D2024-3331](#); *VKR Holding A/S v. Private Registration / Joe Hawtin*, WIPO Case No. [D2020-0687](#).

Moreover, considering the composition of the disputed domain name, it is inherently misleading as it suggests an affiliation with the Complainant that, according to the record, does not exist. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

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 Respondent’s conduct demonstrates the Respondent’s knowledge of the Complainant and its trademark. By registering the disputed domain name and then by using the disputed domain name to impersonate the Complainant, demonstrates that the Respondent specifically knew of and targeted the Complainant. *Block.one v. See PrivacyGuardian.org / Burstein-Applebee, Jerry K. Chasteen*, WIPO Case No. [D2021-1516](#).

The Respondent is not associated with the Complainant. The Respondent provided no explanation as to why he selected the Complainant’s BULDAK trademark for the disputed domain name. The Panel concludes that the Respondent selected and used the disputed domain name because of the reputation of the Complainant to attract Internet users but then divert these users to the Amazon website so that the Respondent could receive commission payments from Amazon.

In the present circumstances, the fact that the disputed domain name resolves to a website which impersonates the Complainant and that copies the Complainant’s logo, and that then diverts Internet users to the Amazon website, is conclusive evidence that the registration and use of the disputed domain name was in bad faith. *Merryvale Limited v. reza biabangard*, WIPO Case No. [D2021-2691](#).

As set out in Section 4 above, the Respondent states on the website at the disputed domain name that he is an Amazon affiliate and receives commissions from Amazon. This is strong evidence that the Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the associated website creating a likelihood of confusion with the Complainant's long-standing trademark as to the source, sponsorship, affiliation, or endorsement of that website. *Consumer Reports, Inc. v. Domains By Proxy, LLC / Khorn Youra*, WIPO Case No. [D2021-0869](#).

The Panel is also aware that there are other websites that have similar content and format to the website at the disputed domain name, and also in some cases similar domain name structure. These websites include different physical addresses in the United States, suggesting that these addresses are misleading. Although it appears that the Respondent is engaged in pattern of conduct, the Panel does not need to rely upon such websites to reach the decision in this case. See, for example, the websites located at <theduvalin.com>, <thecepacol.com>, <themedihoney.com>, <colemanhottub.net>, <matapiojos.net>, and <thetukol.com>.

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

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 <thebuldakramen.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: January 30, 2025