

ADMINISTRATIVE PANEL DECISION

3 Brasseurs International v. Norazeth Milinvorapapond Case No. D2025-0247

1. The Parties

The Complainant is 3 Brasseurs International, France, represented by AARPI Scan Avocats, France.

The Respondent is Norazeth Milinvorapapond, Thailand.

2. The Domain Name and Registrar

The disputed domain name <3-brasseurs-toulouse.com> (the “Disputed Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2025. On January 23, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 23, 2025, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 27, 2025, 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 January 29, 2025.

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 February 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 3, 2025.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on March 13, 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

Founded in 1986, the Complainant is a French chain of restaurants and breweries offering authentic cuisine in the style of the old brasseries and operated under franchise agreements worldwide. In 2024, the Complainant owned more than 100 restaurants in France, French overseas territories, Canada and Brazil.

The Complainant owns several 3 BRASSEURS trademarks, including but not limited to European Union Trademark Registrations Nos. 009468241 and 009467168 registered on April 1, 2011; European Union Trademark Registration No. 018848491 registered on July 12, 2023; and French Trademark Registration No. 3770229 registered on September 29, 2010.

The Complainant is also the owner of numerous domain names featuring 3 BRASSEURS trademark, namely <3brasseurs.org>, <3brasseurs.com>, and <3brasseurs.fr> registered in 2008, 2019, and 2020 respectively.

The Disputed Domain Name was registered on October 31, 2024. As of the date of filing of the Complaint and this Decision, the Disputed Domain Name resolves to an active website offering gambling online services in Thai language.

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, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights.

The Complainant contends that the Disputed Domain Name is confusingly similar to its 3 BRASSEURS trademark since it identically reproduces the entire 3 BRASSEURS trademark, being the most striking part of the Disputed Domain Name. The sole addition of the term "toulouse", which refers to a French city, is insufficient to overcome the finding of confusing similarity. The addition of the geographical term as it refers to the French city where the Complainant operates two franchised restaurants, may be viewed as an attempt to mislead Internet users into believing that the associated website is operated by one of the Complainant's franchisee based in Toulouse.

Furthermore, the Complainant argues that the generic Top-Level Domain ("gTLD") ".com" may be disregarded for the purpose of assessing confusing similarity under the Policy.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Complainant has never given any authorization or permission to anyone and in particular to the Respondent to register its 3 BRASSEURS trademark and domain names. Nor has the Complainant given authorization for its trademark to be used by third parties with the exception of its franchisees. In this present case, the Respondent is located in Thailand, where the Complainant has no business or franchisee. Therefore, the Complainant contends that it has no reason to authorize the Respondent to register and/or use its trademark.

Second, the Complainant asserts that the Respondent is not in any way related to the Complainant.

Finally, the Complainant submits that the Respondent is not commonly and has never been known by the 3 BRASSEURS trademark and the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant submits that the Respondent registered the Disputed Domain Name in bad faith. The Complainant asserts that the Respondent already knew of the existence of the Complainant's trademark at the time the Disputed Domain Name was registered for the following reasons: (i) The Complainant's trademarks and domain names have been registered and actively used in commerce before the registration of Disputed Domain Name; (ii) the Respondent should be clearly aware of the Complainant's activity just via a simple search on the Internet; (iii) it is unlikely that the Respondent's choice to register a domain name similar to the Complainant's trademark was purely random, especially in view of the wide use of its distinctive signs; (iv) the Respondent is located in Thailand, where the Complainant has no business or franchisee; (v) the mere Respondent's absence of right or legitimate interest of the Disputed Domain Name should point out that the Disputed Domain Name has not been used in good faith; and (vi) the registration and use of a domain name which is connected with a well-known trademark, by someone with no connection with the said trademark, suggest opportunistic bad faith, especially the Disputed Domain Name incorporates the geographical term "toulouse" which directly evokes the location of the Complainant's franchised restaurants. From the above, the Complainant contends that the registration of the Disputed Domain Name cannot be considered accidental, and it is evident that the Respondent registered the Disputed Domain Name to take advantage of the Complainant's reputation and derive undue commercial benefit from it.

Second, the Complainant submits that the Respondent registered and is using the Disputed Domain Name for commercial gain and to profit from the resulting consumer confusion that the Disputed Domain Name' website is endorsed by or associated with the Complainant. Particularly, the Disputed Domain Name resolves to an online gambling website written in Thai language. The Respondent is using the Disputed Domain Name to make profit by attracting, on its gambling associated website, Internet users who are wrongly led to believe that this website is operated by the Complainant and will provide them with information regarding a 3 BRASSEURS restaurant based in Toulouse.

Therefore, the Complainant considers that the Respondent registered and is using the Disputed Domain Name in bad faith under the Policy paragraph 4(b)(iii).

With the said arguments, the Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Respondent's Identity

The Panel notes that at the time the Complaint was filed on January 22, 2025, the Respondent was identified as "Redacted for Privacy". On January 23, 2025, the Registrar revealed the Respondent information with another address. The Center sent an email communication to the Complainant on January 27, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On January 29, 2025, the Complainant filed an amended Complaint with the underlying registrant and contact information disclosed by the Registrar.

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 Panel finds that the Complainant has evidenced that it has rights in and to the 3 BRASSEURS trademark, which was registered in several countries before the registration of the Disputed Domain Name.

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 the geographical term "toulouse", referring to a city in France, may bear on assessment of the second and third elements, the Panel finds the addition of such term does 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.

In addition, the Panel finds, similarly to other UDRP panels, that the addition of the gTLD ".com" to the Disputed Domain Name may be disregarded under the first element confusing similarity test because it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.

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.

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy, including:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant’s asserted facts, that no license, permission or authorization in any kind to use the Complainant’s 3 BRASSEURS trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction related to “3 BRASSEURS”. Thus, the Panel finds that the Respondent has no rights in the 3 BRASSEURS trademark.

Further, the Complainant has submitted relevant evidence showing that the Disputed Domain Name resolves to an active website offering online gambling services in Thai language and redirects to another gambling website. The Panel finds that the current redirection of the Disputed Domain Name to a website offering gambling services does not establish a bona fide offering of goods and services.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds no evidence indicating that the Respondent, whether as an individual, business, or entity, is commonly known by the Disputed Domain Name, nor is the Respondent making a legitimate noncommercial or fair use of it. In fact, by incorporating the Complainant’s distinctive trademark in its entirety within the Disputed Domain Name, the composition of the Disputed Domain Name affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the Disputed Domain Name and the Complainant as to the origin or affiliation of the website at the Dispute Domain Name, contrary to the fact, which cannot constitute fair use.

In addition, when a domain name closely matches a complainant’s trademark, this is an indication of potential confusion or implied endorsement. In this present case, the Disputed Domain Name fully replicates the Complainant’s 3 BRASSEURS trademark. Furthermore, the addition of the geographical term “toulouse” – a French city where the Complainant’s franchised restaurants are located may increase confusion by suggesting a connection to the Complainant’s business activities. Considering the Complainant’s broad presence, it is likely that consumers might mistakenly link the Disputed Domain Name to the Complainant. Therefore, the Panel confirms the findings that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

Based on the foregoing findings, 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, including:

“(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location."

In the present case, the Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not formally reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The Panel has considered the Complainant's assertions and evidence relating to the Respondent's registration and use of the Disputed Domain Name. In this regard, the Panel finds that the Complainant's 3 BRASSEURS trademark has been registered and put in use in several countries worldwide. These trademark registrations well predate the registration of the Disputed Domain Name.

The Disputed Domain Name comprises the Complainant's 3 BRASSEURS trademark in its entirety, adding only the geographical term "toulouse", a city in France, which directly evokes the location of the Complainant's franchised restaurants. Given the extensive use of the 3 BRASSEURS trademark for restaurant services by the Complainant, which occurs in numerous countries, it is very unlikely that the Respondent registered the Disputed Domain Name in a fortuity. Also, the Panel is of the view that the Respondent obviously knew the Complainant, its 3 BRASSEURS trademark and the Complainant's franchised restaurants in Toulouse, France when it registered the Disputed Domain Name, and the Panel considers the registration is an attempt by the Respondent as to take advantage of the reputation and goodwill of the Complainant's trademark.

In addition, the Panel takes the view that any Internet users seeking the Complainant's 3 BRASSEURS restaurants, especially restaurants in Toulouse, France, would very likely believe that the Disputed Domain Name is of the Complainant and the Respondent is either the Complainant or associated with the Complainant, while no such connection exists in fact, and mistakenly enter to the Disputed Domain Name. On the date of this Decision, the Panel accesses the Disputed Domain Name and finds that it resolves to an active website offering online gambling services written in Thai language and redirects to another gambling website which offers English language as a language option in the right-hand task bar. The Panel, therefore, finds that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website on its website, and the target Internet users are not limited to users who understand Thai language, but also worldwide Internet users, which is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Based on the foregoing findings, 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 Name <3-brasseurs-toulouse.com> be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: March 25, 2025