

## **ADMINISTRATIVE PANEL DECISION**

Delivery Hero SE v. Equitas Global  
Case No. D2025-0734

### **1. The Parties**

The Complainant is Delivery Hero SE, Germany, represented by Osborne Clarke Rechtsanwälte Steuerberater Partnerschaft mbB, Germany.

The Respondent is Equitas Global, United Kingdom.

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

The disputed domain name <deliveryherocruelty.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 February 21, 2025. On February 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 25, 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 amendment to the Complaint on the same day.

The Center verified that the Complaint together with the amendment to 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 February 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2025. The Response was filed with the Center on March 19, 2025.

The Center appointed Luca Barbero as the sole panelist in this matter on March 21, 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 German multinational online food ordering and food delivery company founded in 2011 and present in over 70 countries across four continents.

The Complainant is the owner of numerous trademark registrations for DELIVERY HERO, including the following:

- European Union trademark registration No. 018406986 for DELIVERY HERO (word mark), filed on February 23, 2021, and registered on June 05, 2021, in class 9;
- European Union trademark registration No. 018314036 for DELIVERY HERO (figurative mark), filed on September 29, 2020, and registered on February 16, 2021 in class 9;
- International trademark registration No. 1247876 for DELIVERY HERO (word mark), registered on March 18, 2015, in classes 35, 39, and 43;
- United Kingdom trademark registration No. UK00910683829 for DELIVERY HERO (word mark), filed on February 29, 2012 and registered on July 24, 2012, in classes 35, 39, and 43.

The Complainant is also the owner of the domain name <deliveryhero.com>, which was registered on October 1, 2010, and is used by the Complainant to promote its services under the trademark DELIVERY HERO.

The Respondent is a non-profit advocacy organization focused on promoting animal welfare and consumer health protection in corporate supply chains, especially related to caged egg production.

The disputed domain name was registered on March 22, 2023, and resolves to a criticism website over the use of caged eggs in the Complainant's supply chain. The website displays a modified version of the Complainant's figurative trademark DELIVERY HERO, amended with the addition of the word "cruelty", and a video featuring the Complainant's figurative mark entitled "Delivery Hero: Filth and Food Safety Risks".

The Complainant sent a cease and desist letter to the Respondent, on April 19, 2024, requesting the removal of the Complainant's figurative mark and of the names and pictures of the Complainant's executives from the website to which the disputed domain name resolved. The Respondent replied, on April 29, 2024, refusing to comply with the Complainant's requests. However, according to the Panel's review of the website at the time of the drafting of the Decision, the images of the Complainant's executives have been removed.

#### **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 the disputed domain name is confusingly similar to the trademark DELIVERY HERO in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the generic term "cruelty" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Respondent was in no way authorized, permitted or allowed by the Complainant to use its trademarks in any way as part of the disputed domain name or for any other purpose, and there is no trademark or trade name registered by the Respondent corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name.

The Complainant also contends that the Respondent has not used, nor made 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 and that the Respondent's use of the disputed domain name is not fair since the disputed domain name itself is highly similar to the Complainant's trademarks and thus suggests an association with the Complainant.

The Complainant further submits that the Respondent cannot rely on fair use because: i) the Respondent's allegations mentioned on the website do not pertain the Complainant but one of its subsidiaries Owen's Pandamart Stores; ii) the described animal welfare violations are misdirected and do not involve the Complainant's core operations or practices; iii) the allegations made on the website are neither substantiated nor verified as there is no evidence provided to support the claims, nor is there any means for verification or serious contact; iv) the allegations are presented in a sensational and exaggerated manner in the intention of provoking an emotional response rather than providing a fair and balanced account of the situation; v) the website improperly names and highlights numerous executives and investors of the Complainant, personally associating them with the unfounded allegations; vi) the website aims to misleadingly associate the Complainant with the mentioned allegations, causing harm to the Complainant and the named executives and investors, damaging the reputation of the Complainant and tarnishing its trademark DELIVERY HERO; vii) the disputed domain name and the correspondent website are misleading and false, serving only to harm the Complainant.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the Respondent registered and used the disputed domain name, which is highly similar domain name to the Complainant's trademark, with the intent to deliberately and persistently harm the Complainant's business whilst tarnishing the Complainant's reputation. The Complainant indicates that the Respondent obviously had knowledge of the Complainant's well-known trademark, as it intentionally used it to abuse the Complainant's well-known trademarks DELIVERY HERO and to disrupt the business of the Complainant.

The Complainant claims that the Respondent deliberately used the Complainant's figurative mark to inflict maximum damage to the Complainant's reputation and points out that it chose to publicly name executives and investors of the Complainant, extending the accusations far beyond the Complainant itself and attempting to associate many executives and investors with defamatory behavior.

The Complainant states that the headline of the video "“Delivery Hero: Filth and Food Safety Risks,” has been deliberately chosen to incite fear and outrage among viewers, customers and investors and that the Respondent has clearly attempted to boycott and disrupt the Complainant's business operations by spreading false and damaging information.

The Complainant further contends that the Respondent's actions to falsely accuse the Complainant of animal cruelty are a clear example of bad faith registration and use of a domain and that such actions are not only unethical but also illegal. The Complainant concludes that the Respondent registered and used the disputed domain name in bad faith to harm the Complainant's business, reputation, and brand through the dissemination of false, defamatory, and sensationalized content.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

The Respondent acknowledges that the disputed domain name incorporates the Complainant's trademark, but states that the addition of the term "cruelty" clearly signals to users that the correspondent website is critical of the Complainant, not affiliated with it.

The Respondent states that it registered the disputed domain name to highlight the Complainant's failure to commit to a global cage-free egg policy and notes that this issue is widely recognized as a serious animal welfare and public health problem. The Respondent indicates that, prior to launching its campaign, the Respondent engaged with the Complainant trying to convince it to commit to a global cage-free egg policy. However, since the Complainant did not appear to be making progress in complying, the Respondent chose to register the disputed domain name to launch the campaign online.

The Respondent submits that its website is noncommercial and that it is a criticism site that does not solicit donations, display ads, or offer any products or services, but has the sole purpose of educating the public about the Complainant's supply chain failures in an attempt to pressure the company to act.

The Respondent contends that the Complainant's assertion that the Complainant is entirely devoid of bad faith intentions since the criticism should be directed to its subsidiary Foodpanda and not to them, is unfounded, considering the Complainant should know it is responsible for its global supply chain and that the parent company cannot evade accountability for offloading sourcing decisions to its subsidiaries.

Moreover, the Respondent asserts that considering the Complainant's global renown and influence in the food delivery sector, its main concern should be to adopt consistent global standards, especially where consumers expect a multinational company like the Complainant's, to apply uniform animal welfare food and safety standards. The Respondent states that the Complainant's failure to do so creates legitimate grounds for public criticism.

With reference to the Complainant's bad faith allegations, the Respondent contends that considering: i) the Respondent is not a competitor, gains no commercial advantage and is in no way attempting to sell the disputed domain name, profit from traffic or confuse visitors and ii) the website is based on purely truthful public criticism and in no way is falsely tarnishing the Complainant's mark, the disputed domain name cannot be seen to have been registered in bad faith.

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name 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. Indeed, the Complainant has provided evidence of valid trademark registrations for DELIVERY HERO.

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 term “cruelty” 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 gTLD “.com” can be disregarded under the first element confusing similarity test, being a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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.

The Complainant states that the Respondent does not have any rights or legitimate interests in the disputed domain name since the Respondent has not been authorized by the Complainant to use its trademarks in any way, does not have any trademark or trade name corresponding to the disputed domain name and there is no possible link between the Respondent and the disputed domain name.

The Complainant also contends that the Respondent has not used, nor made preparations to use, the disputed domain name in connection with a bona fide offering of goods or services and that the Respondent’s use of the disputed domain name does not amount to fair use since the disputed domain name suggests an association with the Complainant and the Respondent pointed the disputed domain name to a website displaying content apt to discredit the Complainant and its services.

The Respondent contends that it has made a legitimate noncommercial or fair use of the disputed domain name according to paragraph 4(c)(iii) of the Policy as it has pointed the disputed domain name to a criticism site concerning the Complainant’s use of caged eggs in its supply chain.

It is established that the use of a domain name for fair use such as noncommercial free speech would in principle support a respondent’s claim to a legitimate interest under the Policy. However, to support fair use under UDRP paragraph 4(c)(iii), the respondent’s criticism must be genuine and noncommercial and must not create an impermissible risk of user confusion through impersonation. [WIPO Overview](#), sections 2.6.1 and 2.6.2.

Where the disputed domain name is not identical to the complainant’s trademark but comprises the mark in combination with a derogatory term, the respondent may be found to have a legitimate interest in using the trademark as part of the disputed domain name of a criticism site if such use is prima facie noncommercial, genuinely fair, and not misleading or false. [WIPO Overview](#), section 2.6.3.

Based on the record, the Panel finds that the Complainant has not met the requirements to establish the Respondent’s lack of rights or legitimate interests according to paragraph 4(c)(iii) of the Policy.

The Respondent is using the disputed domain name in connection with a non-pretextual criticism site focused on challenging the Complainant’s alleged tolerance of “caged egg” production in its global supply chain on food safety and animal welfare grounds, notwithstanding that such views are objectionable to the Complainant.

Moreover, the Panel does not find that the Respondent’s website is a pretext for commercial gain, as it does not solicit donations, display ads, or offer on sale any products or services. Furthermore, the Panel finds that the website does not appear to be intended to promote any competitor of the Complainant or have any purpose other than to criticize the Complainant’s business practices.

The Panel also finds that the disputed domain name is not inherently misleading since the addition of the derogatory word “cruelty” to the Complainant’s trademark is likely to induce users to understand that the corresponding website is operated by a third party and not by the Complainant.

Furthermore, the Panel finds that, in view of the content published on the website to which the disputed domain name resolves, it is clear to users visiting the website that it is not operated by the Complainant. Indeed, despite the references to the Complainant and its trademarks, including the reproduction of the Complainant’s figurative mark in the logo displayed on the website (which also include the word “cruelty”), the Panel finds that such references are made in the context of criticizing the Complainant’s business practice and do not suggest that the website is operated by or affiliated with the Complainant. See, along these lines, *Bakkavor Foods Limited v. Privacy Service Provided by Withheld for Privacy ehf / Equitas Global*, WIPO Case No. [D2022-1244](#) (<bakkavorcruelty.com>) and *Ironfx Global Limited v. MR Qaisar Saeed Butt / Moniker Privacy Services*, WIPO Case No. [D2015-1221](#) (<ironfxscam.com>).

Therefore, the Panel finds in the circumstances that the Complainant has failed to establish the second element of the Policy.

### **C. Registered and Used in Bad Faith**

In light of the findings with respect to rights or legitimate interests, above, it is unnecessary to address the third element under paragraph 4(a) of the Policy.

## **7. Decision**

For all the foregoing reasons, the Complaint is denied.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: April 4, 2025