

## ADMINISTRATIVE PANEL DECISION

Caffè Borbone S.r.l. v. 于青青 (yu qing qing)  
Case No. D2025-1156

### 1. The Parties

The Complainant is Caffè Borbone S.r.l., Italy, represented by Società Italiana Brevetti S.p.A., Italy.

The Respondent is 于青青 (yu qing qing), China.

### 2. The Domain Name and Registrar

The disputed domain name <aromatika.xyz> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2025. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 21, 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 March 28, 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 in English on March 31, 2025.

On March 28, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 31, 2025, the Complainant requested that English be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on April 1, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 22, 2025.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 1, 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 an Italian coffee company based in Naples, founded in 1996, formerly named L'Aromatika S.r.l. According to its website, Caffè Borbone was born in 1999. The Complainant produces around 96 tonnes of processed coffee every day. The Complainant's products have been granted Superior Taste Awards by the International Taste Institute and received a Quality Award in 2019. The Italian newspaper "La Repubblica" reported in 2016 that the coffee pod and capsule sector was dominated by three companies, one of which was L'Aromatika. The Complainant obtained Italian trademark registration number 0000895991 for a figurative L'AROMATIKA mark depicting the profile of Mount Somma, Vesuvius, and a coffee cup and saucer with smoke, claimed in colors, registered on June 9, 2003, specifying goods and services in classes 9, 30, and 42, including coffee, tea and cocoa. That registration was renewed under number 0001256878 from March 12, 2010 and under number 362019000144426 from March 20, 2020. The latest registration is current. The Complainant uses the domain name <caffeborbone.com> in connection with a website in multiple languages that prominently displays a Caffè Borbone logo and offers for sale Caffè Borbone-branded products, including capsules, beans, and ground coffee.

The Respondent is an individual based in China. According to information presented by the Complainant, the Respondent has been party to 23 prior UDRP proceedings at the Center, in all of which he or she was found to have registered and been using domain names in bad faith. In several of those cases, the domain names at issue were offered for sale on a broker's website for USD 950 or USD 1,450.

The disputed domain name was registered on February 13, 2025. It resolves to a broker's website where it is offered for sale for USD 1,450.

#### **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 its L'AROMATIKA trademark as well as its former company name L'Aromatika S.r.l.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has neither authorized, nor somehow given its consent to the Respondent to register or use the disputed domain name. "Aromatika" is not a term one would choose as a domain name without having specific reasons to choose such a term and this word certainly is not a descriptive term serving to indicate specific characteristics of any goods or services.

The disputed domain name has been registered and is being used in bad faith. There is no connection between the Respondent and the relevant distinctive sign almost identically reproducing the Complainant's trademark L'AROMATIKA and the Complainant's former company name L'Aromatika S.r.l. Aromatika is not a common or descriptive term but is a trademark in and to which the Complainant has demonstrated to have

rights. The disputed domain name is on sale for USD 1,450 which is a very high amount, likely to be in excess of its out-of-pocket costs for the disputed domain name. The Respondent employed a privacy service to hide its identity. The Respondent has in the past registered other domain names identical to well-known trademarks.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Complainant has no familiarity with the Chinese language and is not in a position to conduct the proceedings in Chinese without a great deal of additional expense and delay due to the need for translation of the Complaint and the supporting Annexes; the disputed domain name consists of Latin characters not Chinese script; English was the language of other UDRP proceedings involving the Respondent; the Respondent has contracted resell services for the disputed domain name with an American company; and the Respondent is familiar with English and uses this language to conduct its commercial affairs.

Despite the Center sending emails in Chinese and English regarding the language of the proceeding and the notification of Complaint, the Respondent did not make any submission with respect to the language of the proceeding or express any interest in otherwise participating in this proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

### **6.2. Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following elements:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by 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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a figurative L'AROMATIKA trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Given that the design elements of the mark cannot be reflected in a domain name, the Panel will not take these into account in the assessment of confusing similarity for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.10. The Complainant also seeks to rely on a former company name but, without more, this is not a trademark or a service mark within the terms of the first element of the Policy.

The disputed domain name incorporates almost the entirety of the textual element of the Complainant's L'AROMATIKA mark. The disputed domain name omits the initial "l" and the apostrophe (i.e., the definite article) but the dominant textual feature of the mark (i.e., AROMATIKA) is clearly recognizable within the disputed domain name. The generic Top-Level Domain ("gTLD") extension (".xyz"), as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 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.

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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name resolves to a broker's website where it is offered for sale. The Complainant submits that it has neither authorized, nor given its consent to the Respondent to register or use the disputed domain name. Nothing on the record indicates that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

Further, the Registrar has verified that the Respondent's name is "于青青 (yu qing qing)", not the disputed domain name. Nothing on the record indicates that the Respondent has been commonly known by the disputed domain name.

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.

Based on the record, 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 first of these circumstances is as follows:

“(i) circumstances indicating that [the Respondent has] registered or [the Respondent has] 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 [the Respondent’s] documented out-of-pocket costs directly related to the [disputed] domain name;”

In the present case, the disputed domain name was registered on February 13, 2025, years after the registration of the Complainant’s figurative L’AROMATIKA mark. The disputed domain name is confusingly similar to the mark, incorporating its dominant textual feature and adding a gTLD extension. L’AROMATIKA is not a dictionary word or a coined term but rather a term coming from the Italian word “aromatica” (meaning “aromatic” in the singular feminine form) preceded by the definite article (“l’”), but with a “k” substituted for the “c”, which makes no difference to pronunciation. The top results of Internet searches for “aromatika” (as used in the disputed domain name, without the definite article) show that it is used by various third parties in connection with the ordinary meaning of “aromatic”, including for aromatherapy, fragrances, essential oils, spas, and air fresheners.<sup>1</sup> Even though “aromatika” (spelt with a “k”) is not a dictionary word, multiple parties use it based on the meaning of “aromatic”. That use based on the meaning of “aromatic” is presumably the reason why the Complainant chose to register it in a trademark for coffee. Accordingly, the mere incorporation of “aromatika” does not indicate that the Respondent had the Complainant or its mark in mind when he or she registered the disputed domain name.

The Complainant provides no evidence of reputation or use of its L’AROMATIKA mark from which it might be inferred that the Respondent knew, or should have known, of its existence prior to this dispute. The Complainant alleges that Caffè Borbone’s products “are distributed and appreciated all over the world” but, while its website shows offerings of Caffè Borbone-branded products, it does not appear to display a single instance of the L’AROMATIKA mark. The Complainant’s domain name does not incorporate the L’AROMATIKA mark either. While the Complainant’s products have received certain industry recognition, it is not alleged that any of this concerned a L’AROMATIKA-branded product. The Complainant holds a long-standing registration for the L’AROMATIKA mark in Italy but the Panel does not deem the Respondent to have constructive knowledge of the contents of the Italian trademark register. The top results of the Panel’s Internet searches for “aromatika”, referred to above, do not relate to the Complainant. The Complainant submits one Italian press article from 2016 that referred to L’Aromatika (the Complainant’s former company name) as a leader in the coffee pod and capsule sector at that time. However, nothing on the record indicates that the Respondent has any connection to that sector or should have otherwise been aware of this former company name.

After the Registrar disclosed the name of the Respondent, the Complainant provided compelling evidence that the Respondent is a serial cybersquatter, but this does not redeem the Complaint in this dispute. The disputed domain name is put to the same use as other domain names that prior UDRP panels have found the Respondent to have registered and been using in bad faith (i.e., to offer them for sale for the same or a similar price). However, that pattern of conduct is unavailing in the present dispute because of the lack of a credible explanation as to why the Respondent should be considered to have targeted the L’AROMATIKA mark at the time of registering the disputed domain name.

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<sup>1</sup>The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has conducted basic Internet searches for “aromatika” in the Google and Baidu search engines, which are publicly available, to evaluate the Complainant’s allegation that this is not a common or descriptive term. The Panel considers this process of evaluation useful in assessing the case merits and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

The Panel sees no evidence of targeting on the website to which the disputed domain name resolves. The website makes no reference to the Complainant, the types of product that it sells, or its competitors. .

In summary, the evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

Therefore, the Panel finds that the Complainant has not established the third element of the Policy.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: May 12, 2025