

## **ADMINISTRATIVE PANEL DECISION**

Holding Le Duff “HLD” v. Jerome johanet  
Case No. D2023-2723

### **1. The Parties**

The Complainant is Holding Le Duff “HLD”, France, represented by Scan Avocats AARPI, France.

The Respondent is Jerome johanet, France.

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

The disputed domain name <leduffgroupe.com> is registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2023. On June 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 2023, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 2023, 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 July 6, 2023.

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 July 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 11, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on August 16, 2023. 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 HOLDING LE DUFF “HLD”, known as the Group LE DUFF, which was established in 1976, and is specialized in restaurants and bakeries worldwide.

The Complainant has over 1,250 restaurants and bakeries in 100 countries worldwide and serves 1,000,000 customers daily. The Complainant’s total turnover is more than EUR two billion.

The Complainant is the owner of a large number of trademarks consisting or including the wording GROUPE LE DUFF and LE DUFF in France and abroad, including *inter alia* the following trademarks:

- European Union word trademark GROUPE LE DUFF No. 01146851 filed on April 21, 1999, and registered on June 20, 2000, in classes 29, 30, 32, 35, and 42 (duly renewed);
- French word trademark GROUPE LE DUFF No.99786142 filed on April 13, 1999 in classes 29, 30, 32, 41, 42, 43, and 45 (duly renewed); and
- European Union word trademark LE DUFF No.010685816 filed on February 29, 2012, and registered on July 31, 2012, in classes 29, 30, 31, 32, 35, 41, 43, and 44 (duly renewed).

In addition, the Complainant is also the owner of numerous domain names including for example the following ones:

- <groupeleduff.com> domain name registered on October 22, 2003; and
- <leduff-group.com> domain name registered on April 14, 2011.

The disputed domain name was registered by the Respondent on July 6, 2022.

At the time of filing the Complaint, the disputed domain name resolved to a Registrar parking page. At the time of the drafting of the decision, the disputed domain name does not resolve to an active website.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s previous well known trademarks GROUPE LE DUFF and LE DUFF, since it incorporates the Complainant’s trademark GROUPE LE DUFF entirely, being specified that the word “groupe” is at the end in the disputed domain name and the Complainant’s trademark LE DUFF, with the addition of the final non-distinctive word “groupe”.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent is not known under the name “groupe le duff” and “le duff”; (ii) the Complainant has never given any authorization to any third party to register or to use its GROUPE LE DUFF and LE DUFF trademarks; (iii) the Respondent is not in any way related to the Complainant’s business and does not carry out any activity for or has any business with it; (iv) the Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the prior GROUPE LE DUFF and LE DUFF trademarks or to register for any domain name incorporating these prior trademarks, nor has the Complainant acquiesced in any way to such use or registration of its trademarks by the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and was being used in bad faith. The Complainant’s GROUPE LE DUFF and LE DUFF trademarks are well known and have been widely used by the Complainant since 1976. The Complainant further alleges that the passive holding of the disputed domain name constitutes bad faith use considering the circumstances, particularly since the Respondent has no justification whatsoever in holding the disputed domain name (lack of legitimate interests).

## B. Respondent

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant has shown to have trademark rights in LE DUFF and GROUPE LE DUFF.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademarks LE DUFF and GROUPE LE DUFF since it contains these marks in their entirety. The addition or switch of the term "groupe" does not prevent the trademarks GROUPE LE DUFF or LE DUFF from being recognizable in the disputed domain name. See section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

### B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name, being reminded that the disputed domain name is inactive.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in the proceeding.

As already stated before, nothing is contained in the case file which would show that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or that the Respondent has any rights or legitimate interests in the disputed domain name, since the disputed domain name resolved to a parked page provided by the Registrar, indicating no active use by the Respondent. Moreover, the Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant.

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

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

Given the circumstances of the case, including the distinctive nature of the Complainant's trademarks LE DUFF and GROUPE LE DUFF which are widely used by the Complainant, including on the Internet, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks, including GROUPE LE DUFF and LE DUFF.

Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name that the Respondent chose to register could attract Internet users in a manner that is likely to create confusion for such users. As mentioned earlier, the Panel finds that there is a risk that Internet users will not notice the subtle inversion in the Complainant's trademark GROUPE LE DUFF. The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name was previously parked by the Registrar and currently resolves to an inactive website. It has been established in many UDRP cases that passive holding under the appropriate circumstances does not prevent a finding of a domain name being used in bad faith. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain name will be considered to be in bad faith: "[w]hile panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademarks of the Complainant are widely used and known. The Respondent provided false or incomplete contact details (the Written Notice was not able to be delivered to the Respondent). The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible. The silence of the Respondent in the proceeding is an additional evidence of bad faith in these circumstances. Moreover, previous UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

## **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 <leduffgroupe.com> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: August 30, 2023