

ADMINISTRATIVE PANEL DECISION

Bonduelle SA v. Jerry Crane

Case No. D2023-3051

1. The Parties

The Complainant is Bonduelle SA, France, represented by IP Twins, France.

The Respondent is Jerry Crane, United States of America.

2. The Domain Name and Registrar

The disputed domain name <bonduelle.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 17, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 20, 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 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 18, 2023.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on August 23, 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 a company based in France primarily involved in the processing and distribution of vegetables, which was founded in 1853 by Louis Bonduelle-Dalle (1802-1880) and Louis Lesaffre-Roussel (1802–1869).

The Complainant is the world leader in all forms of ready-to-use vegetables: 500 varieties of vegetables are available in its product line.

The Complainant is listed on the Frankfurt Stock Exchange, London Stock Exchange, and Zurich Stock Exchange.

The Complainant owns more than 300 registered trademarks worldwide covering the term BONDUELLE. In particular, the Complainant is the owner of the following trademarks, which were registered well before the registration of the disputed domain name:

- International registration BONDUELLE (+fig.) No. 347667 registered on August 29, 1968, duly renewed, covering products in classes 29, 30, 32 and 33, and designating AM, AT, BA, BG, BX, BY, CH, CZ, DE, ES, HR, HU, IT, KG, KZ, LI, MA, MD, ME, MK, PT, RO, RS, RU, SI, SK, TJ, UA, and UZ;
- International registration BONDUELLE (+fig.) No. 636442 registered on May 23, 1995, duly renewed, covering products in classes 29, 30 and 31, and designating: EE, GE, LT, TM, UZ, 5 AL, AM, AT, AZ, BA, BG, BX, BY, CN, CZ, DE, ES, HR, HU, IT, KG, KZ, LV, MD, ME, MK, PL, PT, RO, RS, RU, SI, SK, TJ, and UA;
- International registration BONDUELLE (+fig.) No. 654609 registered on March 29, 1996, duly renewed, covering products in classes 29, 30 and 31, and designating DK, EE, FI, GB, GE, GR, IE, LT, NO, SE, SY, TM, TR, UZ, AL, AM, AT, AZ, BA, BG, BX, BY, CH, CN, CU, CY, CZ, DE, DZ, EG, ES, HR, HU, IT, KG, KZ, LI, LV, MA, MC, MD, ME, MK, PL, PT, RO, RS, RU, SI, SK, SM, TJ, and UA;
- International registration BONDUELLE (+fig.) No. 988467 filed on November 27, 2008, duly renewed, covering products in classes 29, 30 and 31, and designating AU, BH, CO, GE, IS, JP, KR, MG, MX, NO, SG, SY, TM, TR, UZ, ZW, AL, AM, AZ, BA, BY, CH, CN, DZ, EG, HR, IR, KG, KZ, MA, MD, ME, MK, RS, RU, TJ, UA, and VN;
- Canadian trademark BONDUELLE No. 0358867, filed on November 17, 1972 and registered on May 31, 1974, and covering products in classes 29 and 30;
- Canadian trademark BONDUELLE (+fig.) No. 1425889, filed on January 28, 2009 and registered on February 9, 2011, and covering products in classes 29, 30 and 31;
- Canadian trademark BONDUELLE No. 1942220, filed on January 23, 2019 and registered on January 30, 2020, covering products in class 29.

The Complainant holds several hundred domain names incorporating the BONDUELLE trademarks, with more than seventy domains constituted exclusively of that term, within both generic Top Level Domains (“gTLDs”) and country code Top Level Domains (“ccTLDs”), as for example: <bonduelle.nl>, <bonduelle.be>, <bonduelle.com.pl>, <bonduelle.fr>, <bonduelle.cz>, <bonduelle.it>, <bonduelle.pl>, <bonduelle.ro>, <bonduelle.info>, <bonduelle.biz>, <bonduelle.us>, <bonduelle.md>, <bonduelle.uz>, <bonduelle.kz>,

<bonduelle.lt>, <bonduelle.lv>, <bonduelle.com.hr>, <bonduelle.com.ua>, <bonduelle.com.au>, <bonduelle.se>, <bonduelle.su>, <bonduelle.com>, <bonduelle.net.pl>, <bonduelle.eu>, <bonduelle.ua>, <bonduelle.pt>, <bonduelle.cl>, <bonduelle.bg>, <bonduelle.net.cn>, <bonduelle.at>. All but one of the domain names of the Complainant constituted exclusively of the term BONDUELLE were registered before the registration of the disputed domain name.

The disputed domain name was registered by the Respondent on December 8, 2022 and it is inactive.

A. Complainant

By the Complaint, the Complainant contends that:

- the disputed domain name is highly similar to its earlier well-known trademarks.
- the only difference between the disputed domain name and the earlier trademarks of the Complainant consists in that one of the "l" letters contained in the trademarks BONDUELLE of the Complainant was omitted in the disputed domain name.
- the use of the lower-case letter format, on the one hand, and the addition of the gTLD, on the other hand, are not significant in determining whether the disputed domain name is identical or confusingly similar to the earlier trademarks of the Complainant.
- the Respondent in these administrative proceedings is Jerry Crane at the time of original filing of the Complaint, who has no trademarks in the terms BONDUELLE or BONDUELE which could have granted the Respondent rights in the disputed domain name.
- it has not found evidence that the Respondent is commonly known by the disputed domain name, whether as an individual, a business, or an organization.
- the Respondent reproduces the Complainant's trademarks in the disputed domain name without any license or authorization from the Complainant, which is strong evidence of the lack of rights or legitimate interest.
- the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services, as the disputed domain name resolves to an error page.
- the disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making legitimate, noncommercial, or fair use of the disputed domain name. In addition, in light of the worldwide renown of the Complainant's trademarks.
- since the Complainant registered and extensively used its trademarks long before the registration of the disputed domain name, the burden is on the Respondent to establish the rights or legitimate interests the Respondent may have or have had in the disputed domain name.
- none of the circumstances which set out how a respondent can prove rights or legitimate interests in a domain name are present in the case at hand.
- the Respondent has registered and is using the disputed domain name in bad faith, as its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights.
- the Respondent's choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its trademarks.

- it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity to the trademarks of the Complainant, in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the Respondent's disputed domain name.
- the dates of registrations of the Complainant's trademarks significantly predate the registration date of the disputed domain name. In this regard, previous panels have established that knowledge of the Complainant's intellectual property rights, including trademarks, at the time of registration of a domain name, proves bad faith registration.
- the current use of the disputed domain name may not be considered a good faith use. By simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademarks in the corresponding domain name. In addition, the disputed domain name resolves to an error page. The absence of use of a domain name (including a blank or "coming soon" page) does not prevent a finding of bad faith under the doctrine of passive holding.
- given the long-lasting and extensive of its trademarks by the Complainant, the Complainant cannot think of any future use of the disputed domain name that may be done by the Respondent in good faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant holds more than 300 trademarks registrations worldwide covering the term BONDUELLE.

The Panel agrees that the disputed domain name is highly similar to its trademarks BONDUELLE, the only difference between the disputed domain name and the BONDUELLE trademarks of the Complainant consisting in that the "l" letters contained in the trademarks BONDUELLE of the Complainant was omitted in the disputed domain name and in the addition of the gTLD.

The Panel finds that such differences are not significant in determining whether the disputed domain name is identical or confusingly similar to the trademarks of the Complainant, as long as the Complainant's trademark is sufficiently recognizable therein. See section 1.9. of the [WIPO Overview 3.0](#).

Moreover, the addition of the gTLD ".com", may be disregarded under the first element, as they are viewed as a standard registration requirement. See section 1.11. of the [WIPO Overview 3.0](#).

The Panel finds that based on the above, the Complainant has succeeded to demonstrate the first element of the Policy in respect of the disputed domain names.

B. Rights or Legitimate Interests

In order to establish the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes a *prima facie* showing, the burden of production shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1).

According to the Complainant, the circumstances of the case indicate that:

- the Respondent reproduces the Complainant's trademarks in the disputed domain name without any license or authorization from the Complainant, which is strong evidence of the lack of rights or legitimate interest,
- the Respondent has not, before the original filing of the Complaint, used or made preparations to use the disputed domain name in relation to a *bona fide* offering of goods or services, as the disputed domain name resolves to an error page,
- in light of the worldwide renown of the Complainant's trademarks, the disputed domain name is inherently likely to mislead Internet users, and there is no evidence that the Respondent has been making legitimate, noncommercial, or fair use of the disputed domain name.

Accordingly, this Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as it did not reply to the Complainant's contentions.

Consequently, the Panel finds that the second element of paragraph 4(a) of the Policy is therefore established.

C. Registered and Used in Bad Faith

Under the Policy paragraph 4(b), bad faith may be evidenced by a number of circumstances including, but not limited to, the use of the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a page 5 product or service on the respondent's website or location.

This Panel considers the circumstances and evidence presented in the Complaint as demonstrative of the bad faith of the Respondent in registering and using the disputed domain name. Such circumstances refer to the following facts documented by the Complainant as committed by the Respondent, as follows:

- the Respondent has registered and is using the disputed domain name in bad faith, as its trademarks were so widely well-known, that it is inconceivable that the Respondent ignored the Complainant or its earlier rights.
- the Respondent's choice of domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its trademarks.
- it is highly likely that the Respondent chose the disputed domain name because of its identity with or similarity to the trademarks of the Complainant, in the hope and expectation that Internet users searching for the Complainant's services and products would instead come across the Respondent's disputed domain name.
- the dates of registrations of the Complainant's trademarks significantly predate the registration date of the disputed domain name.
- given the overall circumstances of the case, the current non-use of the disputed domain name may not be considered a good faith use.
- by simply maintaining the disputed domain name, the Respondent is preventing the Complainant from reflecting its trademarks in the corresponding domain name. In addition, the disputed domain name resolves to an error page.

- given the long-lasting and extensive use of its trademarks by the Complainant, no future use of the disputed domain name may be conceivable to be done by the Respondent in good faith.
- the lack of the Respondent's participation in this proceeding, failing to offer any credible explanation as to the registration and use of the disputed domain name in good faith.

The Panel holds that the disputed domain name was registered and used in bad faith and that the third element of paragraph 4(a) of the Policy is also 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, <bondule.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: September 6, 2023