

## **ADMINISTRATIVE PANEL DECISION**

Holding Le Duff “HLD” v. Sean Ricketts

Case No. D2023-3150

### **1. The Parties**

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

The Respondent is Sean Ricketts, Germany.

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

The disputed domain name <groupealeduff.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 21, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 22, 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 July 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 August 2, 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 August 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on September 29, 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, known as the Group LE DUFF, which was established in 1976, is specialized in restaurants and bakeries worldwide. It 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 2 billion. The Complainant received several awards for the quality of its products and for its business success. The Complainant's LE DUFF brand is the first hit on many Google search engines when searching for GROUPE LE DUFF or LE DUFF. The Complainant's trademarks are used on the Complainant's websites, notably "www.en.groupeleduff.com" and available at over a dozen of other domain names featuring the Complainant's trademarks.

The Complainant owns registrations for its GROUPE LE DUFF trademark, including for instance European Union registration No. 001146851, registered on June 20, 2000. The Complainant also owns registrations for its LE DUFF trademark, including for instance European Union registration No. 010685816, registered on July 31, 2012.

The disputed domain name was registered on July 6, 2023, and resolved to an inactive website. At the time of the Decision in the present case, the disputed domain name resolves to an inactive website.

#### **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 Complainant's trademarks as it reproduces letter-by-letter its GROUPE LE DUFF trademark with the mere substitution of the letter "e" for the letter "a", and its LE DUFF trademark with the sole addition of the term "groupa".

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never given any authorization or permission to the Respondent to register or to use its trademarks. The Respondent is not in any way related to the Complainant. It is not an authorized distributor of the Complainant and it does not carry out any activity for or has any business with it. The Respondent is not currently and has never been known under the name GROUPE LE DUFF or LE DUFF.

The domain name was registered and is being used in bad faith. The Complainant's trademarks and domain names were registered many years before the disputed domain name was registered and are well known in France and abroad. The Respondent could not have been unaware of the Complainant's prior trademarks and domain names when it registered and used the disputed domain name in view of the renown of these prior rights, its strong presence on the Internet and the distinctiveness. Any search for the Complainant's trademarks conducted with a search engine such as Google leads in the first place to websites relating to the Complainant and its activities. The mere absence of rights or legitimate interests of the Respondent should point out that the disputed domain name has not been registered in good faith. The passive holding of the disputed domain name cannot prevent the characterization of bad faith since many factors attest to the Respondent's bad faith who is likely to have registered or acquired the disputed domain name for the purpose of selling, renting or otherwise transferring it to the Complainant or its competitors.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 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.

Based on the available record, the Panel finds 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 the entirety of the mark LE DUFF 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.

The Panel also finds the mark GROUPE LE DUFF is recognizable 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.

Finally, the Panel finds the disputed domain name consists of an intentional misspelling of the Complainant's trademark GROUPE LE DUFF, by way of substitution of letter "e" with letter "a" in word "groupe", thus it is confusingly similar to the Complainant's trademark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

Based on the available record, 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.

While 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 often impossible 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. 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 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.

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Panel finds that in the present case the disputed domain name is inherently misleading in view of the typo-squatting nature reflected in its constructions, which confirms that the Respondent does not have rights or legitimate interests in the disputed domain name.

Based on the available 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.

According to section 3.2.2 of the [WIPO Overview 3.0](#), noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. The Panel finds that since the Complainant's trademark is an invented distinctive word, and it was intensively used for a significant period of time to become known in its sector including on the Internet, on the balance of probabilities the Respondent most probably knew and targeted the Complainant and its trademark when registering the disputed domain name, which is bad faith.

Although at the time of this Decision the disputed domain name resolves to inactive webpage, its typo-squatting composition and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds the third element of the Policy has been 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, <groupaleduff.com>, be transferred to the Complainant.

*/Taras Kyslyy/*

**Taras Kyslyy**

Sole Panelist

Date: September 30, 2023