

ADMINISTRATIVE PANEL DECISION

Bonduelle SA v. 于青青 (yu qing qing)

Case No. D2024-0002

1. The Parties

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

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

2. The Domain Name and Registrar

The disputed domain name <bonduelle.online> 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 January 2, 2024. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on January 5, 2024, 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 January 31, 2024.

On January 5, 2024, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On January 30, 2024, the Complainant requested English to be the language of the proceeding. On January 5, 2024, the Respondent requested Chinese to be 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 January 31, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent submitted an email regarding the language of proceeding on January 5, 2024, but did not submit any substantive response. The Center notified the Commencement of Panel Appointment Process to the Parties on February 26, 2024.

The Center appointed Sok Ling Moi as the sole panelist in this matter on March 5, 2024. 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 offers plant-based food all over the world. Founded in 1853, the Bonduelle Group, of which the Complainant is a member, generated over EUR 2.4 billion in revenue during its last financial year.

The Complainant owns trade mark registrations for the BONDUELLE mark in various jurisdictions worldwide, including the following:

- International registration No. 347667 for the word mark BONDUELLE, registered on August 29, 1968;
- International registration No. 624076 for the word mark BONDUELLE, registered on September 7, 1994, designating, among others, China; and
- International registration No. 636442 for the word mark BONDUELLE, registered on May 23, 1995, designating, among others, China.

The Complainant also owns numerous domain names incorporating the BONDUELLE trade mark, including <bonduelle.com> (registered in 1997) where it operates its official website.

The disputed domain name was registered on November 14, 2023, long after the Complainant has used and registered its trade mark BONDUELLE.

According to the evidence submitted by the Complainant, the disputed domain name was not linked to an actual website, however, it was offered for sale for USD 1,450 or for lease at USD 100 per month on a domain name trading platform.

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 identical to its trade mark, as it incorporates BONDUELLE mark in its entirety;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issue: 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 was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name comprises Latin characters rather than Chinese characters, and has the English word “online” for its extension.

The Respondent requested that the language of the proceeding be Chinese claiming that Chinese is her working language and using Chinese would ensure an accurate understanding of the documents and legal jargons therein.

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).

In this case, the Panel notes that the webpage to which the disputed domain name resolves contains English contents. Furthermore, the Respondent has been informed by the Center that it would accept a Response in either English or Chinese, but it did not file a formal Response. As such, the Panel finds that no foreseeable procedural benefit may be served by requiring the Complaint to be translated into Chinese and for Chinese to be the language of the proceeding at this stage.

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.

6.2 Substantive Issue - Findings

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be transferred:

- (i) the disputed domain name registered by the respondent is identical or confusingly similar to a trade mark or service mark in which the complainant has rights;
- (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.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the generic Top-Level Domain (“gTLD”) “.online” is a standard registration requirement and does not impact on the analysis of whether the disputed domain name is identical or confusingly similar to the Complainant’s trade mark.

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

The Complainant has confirmed that the Respondent is not in any way affiliated with the Complainant or otherwise authorized or licensed to use the BONDUELLE trade mark or to seek registration of any domain name incorporating the BONDUELLE trade mark. The Respondent appears to be an individual by the name of “于青青 (Yu Qing Qing)”. There is no evidence suggesting that the Respondent is commonly known by the name “Bonduelle” or has any rights in the term “Bonduelle”.

There is no evidence suggesting that the Respondent is using the disputed domain name for a bona fide offering of goods or services, or for a legitimate noncommercial or fair use. Instead, the disputed domain name resolves to a domain name trading platform offering it for sale.

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.

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.

In the present case, the Panel notes that the disputed domain name does not resolve to any active website in connection with a bona fide offering of goods or services, but is instead offered for sale on a domain name trading platform for USD 1,450 or for lease for USD 100 per month, which is in excess of the normal costs for registering and maintaining a domain name. The Panel accepts that the Respondent is highly likely to have registered the disputed domain name for the purpose of selling or otherwise transferring the same to the Complainant or one of its competitors for valuable consideration. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

Furthermore, by registering the disputed domain name which is identical with the Complainant's trade mark, the Respondent is preventing the Complainant from reflecting its trade marks in the corresponding domain name. The circumstances referred to in paragraph 4(b)(ii) of the Policy are applicable.

Given that the Complainant's trade mark is well known and in use for several years, the Panel accepts that the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its trade marks.

The Panel finds that the Complainant has established the third element of the Policy.

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 <bonduelle.online> be transferred to the Complainant.

/Sok Ling MOI/

Sok Ling MOI

Sole Panelist

Date: March 21, 2024