

ADMINISTRATIVE PANEL DECISION

Le Duff Industries v. web master, Expired domain caught by auction winner.***Maybe for sale on Dynadot Marketplace***
Case No. D2024-1132

1. The Parties

The Complainant is Le Duff Industries, France, represented by Scan Avocats AARPI, France.

The Respondent is web master, Expired domain caught by auction winner.***Maybe for sale on Dynadot Marketplace***, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <bridorexpress.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2024. On March 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 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 verified that the 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 March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 16, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on April 20, 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

According to information in the Complaint, the Complainant (formerly named Bridor Holding), is a world leader in bakery manufacturing and bread production acting under the trademark BRIDOR. Over the years, the Complainant has become the supplier for well-known customers in the hotel and restaurant business, amusement parks such as Disneyland Paris, Eurostar and airlines. The Complainant belongs to Groupe Le Duff that has over 1,550 restaurants and bakeries in 100 countries worldwide and serves 1,000,000 customers daily, with the BRIDOR brand representing 44% of the Complainant's global turnover.

The Complainant is the registered owner of a large number of trademarks and domain names consisting or including the term "Bridor" which have been continuously used in commerce since their registration, as follows:

- the International word trademark registration for BRIDOR, no. 524007 registered on June 27, 1988 (duly renewed) in classes 30 and 42;
- the United States of America ("United States" or "US") word trademark registration for BRIDOR, no. 1531105, registered on March 21, 1989 (duly renewed) in class 30.

In addition, the Complainant filed an application with the United States Patent and Trademark Office for the trademark BRIDOR EXPRESS under the serial No. 98248418 on October 31, 2023. Also, the Complainant has used the domain name <bridor.com> (registered on March 26, 1998) for many years, which resolves to its official website.

The disputed domain name was registered on November 3, 2023, and redirects to a "Dan.com" parking page listing the disputed domain name for sale or lease.

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 prior trademark application BRIDOR EXPRESS. The disputed domain name is also confusingly similar to the Complainant's prior BRIDOR trademarks and domain names, as the disputed domain name incorporates the trademark BRIDOR in its entirety, with the mere addition of the generic term "express" which will not eliminate the likelihood of confusion in the public mind.

As regards the second element, the Complainant argues that the Respondent has not been licensed, contracted or otherwise permitted by the Complainant in any way to use the prior BRIDOR and BRIDOR EXPRESS trademarks or to register any domain name incorporating these prior trademarks, nor has the Complainant acquiesced in any way to such use or registration of the BRIDOR and BRIDOR EXPRESS trademarks by the Respondent. Also, the Respondent is not currently and has never been known under the name BRIDOR EXPRESS.

With respect to the third element, the Complainant argues that it is highly likely that the Respondent knew of the existence of the Complainant's prior intellectual property rights at the time the disputed domain name was registered because, inter alia, the disputed domain name was registered four days after the filing of the Complainant's US identical trademark application for BRIDOR EXPRESS. Also, the Complainant's BRIDOR trademark (which is an arbitrary word created by the Complainant for the sole purpose of its activities) was used in commerce since 1987, many years before the disputed domain name was registered and has acquired notoriety.

As regards the use, the Complainant argues that the disputed domain name leads to a page informing that the disputed domain name is for sale for USD 2,850. The disputed domain name is also offered for sale on a third party platform for USD 2,588. Such use of the disputed domain name reveals that the Respondent has never intended to use it in good faith but has been willing, from the beginning, to resell it and make profit out of it.

B. Respondent

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

6. Discussion and Findings

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant email and postal address disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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 entirety of the Complainant's BRIDOR mark 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.

Although the addition of other term (here, "express") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is the settled view of panels applying the Policy that the Top-Level Domain ("TLD") (here ".com") may be disregarded under the first element test, as such is considered a standard registration requirement.

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.

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.

There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. According to unrebutted evidence with the Complaint, the disputed domain name is redirected to a website offering the disputed domain name for sale for an amount that, in the absence of evidence to the contrary, far exceeds the Respondent’s out-of-pocket expenses. In the Panel’s view, such use does not constitute a bona fide offering of goods or services, rather the Respondent is most likely attempting to unfairly capitalize on the reputation and goodwill of the Complainant’s trademark.

Furthermore, the nature of the disputed domain name may suggest an affiliation with the Complainant that does not exist (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Complainant’s registration and use of the BRIDOR trademark long predate the date at which the Respondent registered the disputed domain name. The Respondent has not come forward with any explanation for the registration of the disputed domain name. Under these circumstances, and also given the distinctiveness of the Complainant’s trademark, as well as the fact that the disputed domain name was registered only four days after the Complainant’s application for the BRIDOR EXPRESS trademark with the USPTO, it is reasonable to infer that the Respondent registered the disputed domain name with the knowledge of the Complainant’s trademarks, and to target those trademarks.

The Complainant has proved that the disputed domain name is offered for sale. This, in view of the finding that the Respondent has no rights to or legitimate interests in the disputed domain name, given also the distinctiveness of the Complainant's trademark and the confusing similarity with the Complainant's trademarks, as well as the failure of the Respondent to present a credible rationale for registering the disputed domain name appears to signal an intention on the part of the Respondent to derive commercial gain from the resale of the disputed domain name, riding on the reputation of the Complainant's trademarks (this Panel accepts that the amount for which the disputed domain name has been put for sale presumably exceeds, without evidence to the contrary, the Respondent's out-of-pocket expenses in registering the disputed domain name). The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use. In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name.

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 <bridorexpress.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: April 29, 2024