

## ADMINISTRATIVE PANEL DECISION

Bonduelle SA v. 刘建福 (Liu Jia)

Case No. D2024-3944

### 1. The Parties

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

The Respondent is 刘建福 (Liu Jia), China.

### 2. The Domain Name and Registrar

The disputed domain name <bonduelle.group> 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 September 26, 2024. On September 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 2024, 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 September 30, 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 on October 8, 2024.

On September 30, 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 October 2, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 October 9, 2024. In accordance with the Rules, paragraph

5, the due date for Response was October 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 30, 2024.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on November 18, 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 is a member of the Bonduelle Group founded in 1853. The Bonduelle Group is in the agro-industrial sector and present in 100 countries with more than 11,000 employees. The Bonduelle Group is listed in the Euronext stock exchange and its global net sales was around over EUR 2.4 billion during the year of 2022-2023.

The Complainant owns registrations for the BONDUELLE trademark in various jurisdictions worldwide, including International registration No. 636442, registered on May 23, 1995 in Classes 29, 30, and 31, designating, among others, China.

The Complainant also owns a number of domain names incorporating the BONDUELLE trademark, including <bonduelle.com> registered in 1997 and <bonduelle.fr> registered in 1998 where it operates official website.

The disputed domain name was registered on July 29, 2024. According to the evidence presented by the Complainant, the disputed domain name is not put into actual use but offered for sale for USD 2,500 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 trademark as it reproduces exactly the BONDUELLE mark;
- 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**

##### **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 is composed exclusively of Latin characters and registered in the gTLD “.GROUP”.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

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).

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.

### **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 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 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.

The disputed domain name resolves to a domain name trading platform with a selling price of USD 2,500. Such use of the disputed domain name cannot be deemed as a bona fide offering of goods or services, or a legitimate noncommercial use. Besides, no information on the website appears to be genuinely related to the dictionary meaning of “Bonduelle”, a French name. Without a Response from the Respondent, the Panel finds it on the balance of probabilities that the Respondent’s attention was to profit from selling the

disputed domain name based on the reputation of the BONDUELLE trademark. Accordingly, the Panel determines that there is no indication that the Respondent has rights or legitimate interests in respect of the disputed domain name.

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 Complainant's BONDUELLE trademark has been registered and used for years and long predates registration of the disputed domain name. The Panel finds it on the balance of probabilities that the Respondent was aware of the Complainant and its BONDUELLE trademark at the time of registration but registered the disputed domain name in bad faith.

The Respondent is offering the disputed domain name for sale for USD 2,500. Such selling price is obviously significantly exceeding the costs that is likely to be incurred for registering the disputed domain name. The Respondent's behavior indicates that it has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the BONDUELLE trademark, for valuable consideration in excess of the Respondent's likely out-of-pocket costs directly related to the disputed domain name, which is evidence of registration and use in bad faith under paragraph 4(b)(i) of the Policy.

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.group> be transferred to the Complainant.

*/Jacob Changjie Chen/*

**Jacob Changjie Chen**

Sole Panelist

Date: December 2, 2024