

## **ADMINISTRATIVE PANEL DECISION**

Samyang Foods Inc. v. Kiattisak Kalkumnerd  
Case No. D2024-3955

### **1. The Parties**

The Complainant is Samyang Foods Inc., Republic of Korea, represented by Dinsmore & Shohl LLP, United States of America (“U.S.”).

The Respondent is Kiattisak Kalkumnerd, Thailand.

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

The disputed domain name <mybuldakramen.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2024. On September 27, 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 (Privacy Service Provided by Withheld for Privacy EHF) 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 2, 2024.

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 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2024.

The Center appointed Keiji Kondo as the sole panelist in this matter on October 31, 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**

For over six decades, the Complainant has been a provider of Korean ramen. Over those years, the Complainant has expanded its business to sell its ramen products in approximately 90 countries.

The Complainant is the owner of the U.S. Trademark Registration No. 6,594,452 for the mark BULDAK and Design (with the design comprised of the word mark displayed in stylized letters), covering such goods as noodles, instant noodles, pasta and noodle-based prepared meals in Class 30. The registration issued on December 21, 2021.

The disputed domain name <mybuldakramen.com> was registered on February 18, 2024.

The disputed domain name resolves to a web page that displays the Complainant's trademark and purports to be "official" web site of the BULDAK brand. However, it displays not only BULDAK products but also a number of different brand products with signs reading "BUY ON AMAZON".

#### **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:

- (i) The disputed domain name is identical or confusingly similar to the Complainant's trademark;
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith.

For each of the above three elements, the Complainant contends as follows:

The disputed domain name differs from the Complainant's trademark only in that it combines the Complainant's trademark with the terms "my" and "ramen", drops the stylization of the design associated with the mark, and includes a Top-Level Domain ("TLD") suffix (".com"). These differences do not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark.

The Respondent is not commonly known by the disputed domain name or any portion thereof, nor is there any indication that the Respondent registered the disputed domain name as a trademark. Further, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, nor is the Respondent using the disputed domain names in connection with a bona fide offering of goods or services.

The disputed domain name resolves to a web page that purports to be "official" web site of the Buldak brand. However, the Respondent's use does not meet the criteria established by *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Therefore, the Respondent's use should not be regarded as use in connection with bona fide offering of goods or services.

The Respondent has registered and used the disputed domain name in bad faith. This contention is supported by several facts: (a) the fact that the Respondent almost certainly had actual knowledge of the Complainant's trademark; (b) the fact that the Respondent is impersonating the Complainant through the site; (c) the fact that the Respondent likely is using the disputed domain name to attract Internet users to the Respondent's web site in a manner likely enabling the Respondent to trade off the Complainant's trademark and reputation; (d) the fact that the Respondent has engaged in a pattern of bad faith conduct by registering multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners; and (e) the fact that the Respondent has used a privacy protection service in the registration of the disputed domain name in order to conceal its identity. These circumstances, taken together with the fact that the Respondent has no legitimate interests in the disputed domain name, demonstrate that the Respondent has acted in bad faith.

## **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.

The Complainant has U.S. Trademark Registration No. 6,594,452, which is for the six-letter word "Buldak" in a stylized form. Therefore, the Complainant has a right in the trademark BULDAK.

The trademark is recognizable in the disputed domain name. Addition of "my" and "ramen" before and after "buldak" does not prevent recognizability of the BULDAK trademark in the disputed domain name. It is well-established that the generic TLD ".com" is not relevant in the appreciation of confusing similarity.

Accordingly, the Panel finds that 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.

In this case, the Respondent did not submit response to the Complaint. If the Respondent had been commonly known by the disputed domain name, it should have been easy to submit a response. Therefore, no response leads the Panel to find that the Respondent has not been commonly known by the disputed domain name.

The disputed domain name resolves to a web page that purports to be “official” web site of the BULDAK brand. This fact demonstrates that the use of the disputed domain name by the Respondent is of commercial nature; that is, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name since the Respondent’s use is obviously commercial.

Then, the remaining question is whether the Respondent uses the disputed domain name in connection with a bona fide offering of goods or services. In this regard, the Panel notes that the Respondent’s website displays not only the BULDAK branded ramen, but also products of other brands. Nevertheless, the website carries a notice reading “Buldak Ramen Official”, which is not true.

According to the criteria established by *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), the Respondent’s use would be regarded as a use in connection with a bona fide offering of goods or services if all the following conditions are satisfied:

- (i) the respondent must actually be offering the goods at issue s;
- (ii) the respondent must use the site to sell only the trademarked goods;
- (iii) the site must accurately disclose the respondent’s relationship with the trademark owner; and
- (iv) the respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

Since the website is falsely designated as “Buldak Ramen Official” and it also displays products other than the BULDAK brand products, at least (ii) and (iii) of the above-listed conditions are not met. Therefore, the Panel finds that the disputed domain name is not used in connection with a bona fide offering of goods or services.

The Panel does not find any other special circumstances that could support a finding of the Respondent’s rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that 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 Respondent’s website displays signs reading “BUY ON AMAZON”, which are presumably links to an Amazon website. It is also presumable that Amazon operates an affiliate program whereby website operators can earn kickbacks or commissions on sales made through traffic directed to Amazon’s site.

The Panel also notes that the registration date of the disputed domain name is February 18, 2024, which is more than two years after the registration date of the Complainant’s U.S. trademark. In addition, the Respondent’s website prominently displays the Complainant’s trademark, discusses the Complainant’s company history, and carries a note reading “Buldak Ramen Official”, showing that the Respondent was aware of the Complainant’s trademark at the time of registration of the disputed domain name.

Combining the above-mentioned facts, the Panel concludes that the Respondent registered the disputed domain name, and is using it, with the intention to attempt to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Accordingly, the Panel finds that the third element of the Policy has been satisfied.

## 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 <mybuldakramen.com> be transferred to the Complainant.

*/Keiji Kondo/*

**Keiji Kondo**

Sole Panelist

Date: November 14, 2024