

## **ADMINISTRATIVE PANEL DECISION**

Caffè Borbone S.r.l. v. Darren Ramsey  
Case No. D2024-4109

### **1. The Parties**

The Complainant is Caffè Borbone S.r.l., Italy, represented by Società Italiana Brevetti, Italy.

The Respondent is Darren Ramsey, United States of America ("US").

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

The disputed domain name <caffaborbone.org> is registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 7, 2024. On October 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 October 11, 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 14, 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 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 5, 2024.





The Center appointed Yuri Chumak as the sole panelist in this matter on November 12, 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 an Italian company operating in the coffee industry, specializing in the sale of products such as coffee capsules, coffee beans, and ground coffee worldwide. Founded in 1996 in Naples (Italy), the company takes its name from the historic Bourbon royal family and Charles III of Bourbon. Recognized as one of the leading brands in the Italian coffee market, the Complainant processes approximately 96 tonnes of coffee daily in its Italian factories.

The Complainant's history has been referenced in prior UDRP decisions. See *Caffè Borbone S.r.l. v. Beats, Beats / KAI*, WIPO Case No. [D2022-0824](#).

The Complainant owns several trademarks, details of which are provided in the attached table and included as Annex 7 of the Complaint. These marks are demonstrated to be owned by the Complainant.

Countries/ Jurisdictions	Trademark	Application No.	Classes	Application date	Registration date
Italy		NA2000C000 037 Last renewal No. 3620190001 44424	9, 30, 42	January 01, 2000	June 9, 2003
European Union	<b>BORBONE</b>	15670532	07, 11, 21, 30, 35, 37, 40, 43	July 18, 2016	November 23, 2016
European Union		15670541	7, 11, 21, 30, 35, 37, 40, 43	July 18, 2016	November 23, 2016
International Registration designating: Albania, Colombia, Giappone, Iran, Messico, San Marino		1359499	11, 30, 43	May 05,2017	May 05, 2017
International Registration designating: European Union, Russia, United States		902614	9, 30, 43	January 11, 200 6	January 11, 2006

The Complainant's official website is "www.caffeborbone.com".

The disputed domain name, registered on October 2, 2024, differs from the Complainant's primary domain name <caffaborbone.com> by a single letter, creating a typographical variation. The disputed domain name resolves to a website displaying "pay-per-click" (PPC) links in the coffee industry.

According to the Complainant's evidence at Annex 12, the Respondent, using an email address associated with the disputed domain name, "[...].@caffaborbone.org", sent a phishing email on October 2, 2024, posing as the Export Manager of the Complainant. The email was addressed to a commercial contact and requested the recipient to withhold payment until the Respondent could provide updated bank details. It claimed that the previous account was unavailable due to internal banking issues and urged the recipient to transfer payment to an alternative account.

The email mimicked official communication from the Complainant, using the real name of an individual who is an employee of the Complainant, the Complainant's logo, and a signature block containing the Complainant's details.

The email sought to deceive the recipient into transferring funds to a fraudulent account, by leveraging the similarity between the disputed domain name <caffaborbone.org> and the Complainant's domain name, <caffeborbone.com>.

## **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.

First, the Complainant asserts that the disputed domain name is confusingly similar to its registered trademark CAFFÈ BORBONE. The disputed domain name differs from the words in the Complainant's trademarks and primary domain name, <caffeborbone.com>, by the substitution of a single letter, which the Complainant argues constitutes an intentional typographical error designed to mislead consumers.

Second, the Complainant argues that the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant, nor has the Complainant authorized the use of its trademarks. The Respondent is not commonly known by the name "Caffè Borbone" and has no legitimate business purpose for the disputed domain name.

Third, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. The Respondent has used the disputed domain name to send fraudulent emails, as evidenced by Annex 12, in an attempt to impersonate the Complainant and deceive customers into transferring payments to an alternative bank account allegedly controlled by the Respondent. The Complainant submits that this constitutes phishing, a clear example of bad faith use under the Policy.

Further, the Complainant submits that the Respondent's provision of an incorrect physical address and the use of a privacy service to conceal its identity further support the finding of bad faith.

The Complainant requests that the disputed domain name be transferred to its ownership.

### **B. Respondent**

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

## 6. Discussion and Finding

### 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 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 mark CAFFÈ BORBONE 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.

As noted in [WIPO Overview 3.0](#), section 1.9, a domain name consisting of a common, obvious, or intentional misspelling of a Complainant's trademark—referred to as "typosquatting"—is considered confusingly similar to the relevant mark. The disputed domain name involves the substitution of the letter "a" for "e" in the Complainant's mark, an intentional misspelling designed to create confusion. Panels have consistently found that such misspellings retain sufficiently recognizable aspects of the trademark to meet the first element of the Policy.

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 is not used for a bona fide offering, the Respondent is not commonly known by it, and its use for phishing cannot be considered legitimate or fair. Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

In addition, panels have held that the use of a domain name for phishing or impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Panel notes that the Respondent registered and is using the disputed domain name in bad faith within the meaning of the Policy.

The Complainant's trademark, CAFFÈ BORBONE, was well-established and recognized at the time of the registration of the disputed domain name. The Respondent's use of the disputed domain name that substitutes the letter "a" for "e" in the Complainant's trademark constitutes intentional typosquatting, aiming to create confusion among Internet users.

Additionally, the disputed domain name resolves to a parked page displaying PPC links in the coffee field, including products competing with the Complainant's. As noted in [WIPO Overview 3.0](#), section 2.9, such use does not constitute a bona fide offering and further supports the finding of bad faith.

The Respondent's actions demonstrate an intent to exploit the Complainant's trademarks for commercial gain by misleading Internet users and disrupting the Complainant's business. These circumstances are consistent with the examples of bad faith outlined in the Policy, particularly paragraph 4(b)(iv).

Finally, the disputed domain name has been used to send phishing/fraudulent emails, impersonating the Complainant and soliciting fraudulent payments. This activity demonstrates bad faith registration and use, as it seeks to exploit the Complainant's reputation for unlawful commercial gain.

Panels have held that the use of a domain name for phishing and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <caffaborbone.org> be transferred to the Complainant.

*/Yuri Chumak/*

**Yuri Chumak**

Sole Panelist

Date: November 25, 2024