

ADMINISTRATIVE PANEL DECISION

Holding Le Duff “HLD” v. Nait Hassan, Tecon Oil Services Ltd
Case No. D2024-0216

1. The Parties

Complainant is Holding Le Duff “HLD”, France, represented by Scan Avocats AARPI, France.

Respondent is Nait Hassan, Tecon Oil Services Ltd, Georgia.

2. The Domain Name and Registrar

The disputed domain name <grouplesduff.com> (the “Domain Name”) is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 19, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on January 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 15, 2024.

The Center appointed John C McElwaine as the sole panelist in this matter on February 22, 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

Complainant is the owner and operator of restaurants and bakeries worldwide. Relevant to this matter, Complainant is the owner of all rights in and to, among others, the following relevant trademark registrations:

- GROUPE LE DUFF, European Union Trade Mark (“EUTM”) Registration Number 001146851, filed on April 21, 1999, and registered on June 20, 2000, in classes 35 and 42;
- GROUPE LE DUFF, French Trademark Registration Number 99786142, filed on April 13, 1999, in classes 29, 30, 32, 35, 42, 43, and 45; and
- GROUPE LE DUFF, EUTM Registration Number 018507447, filed on July 5, 2021, and registered on November 12, 2021, in classes 35, 41, and 43.

Collectively these trademark rights are referred to herein as the “GROUPE LE DUFF Mark.”

Complainant promotes its business at the website “www.groupeleduff.com”.

Respondent registered the Domain Name on August 3, 2023. At the time of filing of the Complaint, the Domain Name did not resolve to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

With respect to the first element of the Policy, Complainant asserts that it is the owner of multiple trademark registrations for marks containing GROUPE LE DUFF. Complainant further asserts that the Domain Name, consisting of Complainant’s GROUPE LE DUFF Mark with the mere absence of the letter “e” and the addition of the letter “s”, is confusingly similar to the GROUPE LE DUFF Mark.

With respect to the second element of the Policy, Complainant alleges that Respondent is not a licensee or affiliate of Complainant, nor is Respondent otherwise authorized to use Complainant’s GROUPE LE DUFF Mark for any purpose. Complainant further asserts that Respondent is not commonly known by the “Groupe Le Duff” or “Le Duff” name.

With respect to the third element of the Policy, Complainant contends that it has demonstrated a strong reputation and the leading position of its GROUPE LE DUFF trademarks in France and abroad in the field of restaurant and bakery café and markets. Complainant alleges that Respondent knew or should have known that the Domain Name was a reference to Complainant. Therefore, Complainant concludes that Respondent registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring it to Complainant or to a competitor, for valuable consideration in excess of Respondent’s costs, which is a proof of bad faith registration. Complainant also asserts that the Domain Name resolves to an inactive website. Complainant further alleges that the passive holding of this Domain Name is in bad faith due to the well-known nature of Complainant’s GROUPE LE DUFF Mark.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Even though Respondent did not formally reply to the Complaint, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove their assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of the absence of a formal Response, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules (“If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint”). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel’s findings on each of the above cited elements are as follows:

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 Complainant’s trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7. Here, Complainant has shown valid trademark rights by virtue of its trademark registrations for the GROUPE LE DUFF Mark. [WIPO Overview 3.0](#), section 1.2.1. In addition, the Domain Name is virtually identical to the GROUPE LE DUFF Mark but for the removal of the letter “e” from the word “groupe” and the addition of the letter “s” to the word “le”. Neither letter variations prevents a finding of confusing similarity as the GROUPE LE DUFF Mark remains recognizable within the Domain Name. See [WIPO Overview 3.0](#), section 1.9, and e.g., *ESH Strategies Branding, LLC v. Kumpol Sawaengkarn*, WIPO Case No. [D2011-0843](#) (the addition or subtraction of the letter “s” from a name is a common mistake Internet users make, and therefore, constitutes typosquatting). Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy¹ or otherwise. Complainant has demonstrated that there is no evidence in the WhoIs data for the Domain Name indicating that Respondent has been commonly known by the terms “group les duff”, rather, the WhoIs data provided by the Registrar for the Domain Name indicates that the registrant’s name is Nait Hassan, Tecon Oil Services Ltd.

¹ The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Also, as it pertains to Complainant's assertion that Respondent is not authorized by Complainant to use the GROUPE LE DUFF Mark, although Respondent has been properly notified of the Complaint by the Center, Respondent failed to submit a formal response on this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complainant, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the domain name at issue. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Complainant contends that Respondent has failed to make any use of the Domain Name. Complainant points out that the Domain Name leads to an inactive website, and as such, is not used in connection with a bona fide offering of goods or services pursuant to Policy, paragraph 4(c)(i). See *Société nationale des télécommunications: Tunisie Telecom v. Ismael Leviste*, WIPO Case No. [D2009-1529](#) (noting that passive holding of a disputed domain name "does not constitute a legitimate use of such a domain name" that would give rise to a legitimate right or interest in the name); *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#) (the respondent had no rights or legitimate interests in the disputed domain name where the disputed domain name resulted to an inactive website); *Philip Morris USA Inc. v. Elijah Etame*, WIPO Case No. [D2016-0968](#) ("the Panel cannot imagine any potentially legitimate interest that Respondent might have in the disputed domain names based on the manner in which the disputed domain names have been used on the inactive websites").

Based on the foregoing, Complainant has made a prima facie showing of Respondent's lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14(b) of the Rules, the Panel may draw such inference from Respondent's default as it considers appropriate. The Panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can also be found where respondents "knew or should have known" of complainant's trademark rights and nevertheless registered a domain name in which they had no rights or legitimate interests. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Here, the GROUPE LE DUFF Mark represents the goodwill of a well-known bakery and restaurant conglomerate. Based on Complainant's submissions, which were not rebutted, Respondent likely knew of Complainant's GROUPE LE DUFF Mark when it registered the Domain Name, which is almost identical to Complainant's GROUPE LE DUFF Mark. See *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#) (finding that "it is likely improbable that Respondent did not know about Complainant's WHATSAPP trademark at the time it registered the Disputed Domain Name considering the worldwide renown it has acquired amongst mobile applications, and the impressive number of users it has gathered since the launch of the WhatsApp services in 2009".) Based on Complainant's submissions, which were not rebutted, the Panel finds that Respondent knew or should have known of Complainant's GROUPE LE DUFF Mark, when it decided to register the Domain Name.

The fact that the Domain Name does not resolve to an active website does not obviate a finding of bad faith use of the Domain Name. When a domain name is being passively held, the question of bad faith use does not squarely fall under one of the aforementioned non-exhaustive factors set out in paragraph 4(b) of the Policy. The three-member panel in *Magazine Publishers Inc. and Les Publications Conde Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#), made the following observations in its determination that the respondent was acting in bad faith:

- (i) the complainant's trademark has a strong reputation and is widely known, as evidenced by its substantial use in the United States of America and in other countries;
- (ii) the respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name;
- (iii) the respondent registered the domain name in 1999, and seems not to have been using the domain name;
- (iv) the respondent did not reply to the complainant's communications before the proceedings; and
- (v) the respondent did not reply to the complainant's contentions.

In this case, Complainant's mark is well known having been extensively marketed and used throughout Europe and internationally for at least more than 20 years. Respondent did not respond to the Complaint and has provided no evidence of its intended use of the Domain Name. However, given the unique nature of the GROUPE LE DUFF mark, it seems highly likely that the Domain Name was registered to draw an association with Complainant.

Based on the uncontested facts discussed in the previous sections, Respondent does not appear to have any rights or legitimate interests in the Domain Name nor does there appear to be any justification for Respondent's choice to register the Domain Name. Accordingly, on balance, there does not appear to be any other reason for Respondent's registration of the Domain Name other than for the possibility to trade off the goodwill and reputation of Complainant's GROUPE LE DUFF Mark or otherwise to create a false association with Complainant. With no response from Respondent, this claim is undisputed. This is additional evidence of bad faith registration and use.

In sum, the Panel finds that Respondent knew or should have known of Complainant's trademark rights and that Respondent's present non-use of the Domain Name does not prevent a finding of registration and use of the Domain Name in bad faith under the doctrine of passive holding under the circumstances of this case. For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith.

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 Domain Name, <groupesduff.com>, be transferred to Complainant.

/John C McElwaine/
John C McElwaine
Sole Panelist
Date: March 7, 2024