

Decision for dispute CAC-UDRP-103922

Case number	CAC-UDRP-103922
Time of filing	2021-07-07 09:10:30
Domain names	inspiredbybonduelle.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Bonduelle SA
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Complainant representative

Organization	IP TWINS
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Respondent

Name	Serhii Vlasyk
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner, amongst others, of the following trademark registrations:

- International trademark registration No. 988467 for BONDUELLE (figurative mark), registered on November 27, 2008, in classes 29, 30 and 31;
- International trademark registration No. 636442, for BONDUELLE figurative mark, registered on May 23, 1995, in classes 29, 30 and 31;
- International trademark registration No. 654609, for BONDUELLE (figurative mark), registered on March 29, 1996, in classes 29, 30 and 31;
- European trademark registration No. 018340674 for SERVICE BY BONDUELLE (figurative mark), filed on November 19, 2020 and registered on April 16, 2021, in classes 29, 30 and 31; and
- European trademark registration No. 18133314 for MINUTE BY BONDUELLE (word mark), filed on October 07, 2019 and registered on February 5, 2020, in international classes 29, 30 and 31.

The Complainant is also the owner of the domain name <bonduelle.com>, which was registered on February 21, 1997 and is

used by the Complainant to promote its products and services under the trademark BONDUELLE.

FACTUAL BACKGROUND

The Complainant is Bonduelle SA, a France-based company founded in 1853 by Louis Bonduelle-Dalle and Louis Lesaffre-Roussel and primarily engaged in the processing and distribution of vegetables.

With five hundred varieties of vegetables available in its product line, the Complainant provides four types of products, such as canned, frozen and fresh processed vegetables, as well as ready-to-eat dishes.

The Complainant employs 14.600 employees in more than 100 countries and owns 56 industrial sites and 128.000 hectares cultivated by 3,440 farmers under contract. In 2020, the Complainant's turnover was 2.777 million Euros.

Bonduelle SA is listed on the Frankfurt Stock Exchange, London Stock Exchange, and Zurich Stock Exchange.

The disputed domain name <inspiredbybonduelle.com> was registered on February 20, 2021 and is pointed to a website promoting online gambling games.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

COMPLAINANT

The Complainant states that the disputed domain name <inspiredbybonduelle.com> is confusingly similar to its trademark BONDUELLE as it includes the trademark in its entirety with the addition of the adjective "inspired", the preposition "by" and the generic Top Level Domain ".com", which would not be sufficient to escape the finding of confusing similarity.

The Complainant also states that the Respondent has no rights or legitimate interests in the disputed domain name since the Respondent i) is not commonly known by the disputed domain name, ii) is not affiliated with nor authorized by the Complainant in any way, iii) has not been granted by the Complainant any license or authorization to use the Complainant's trademark BONDUELLE or apply for registration of the disputed domain name and iv) has not made any bona fide offering of goods or services via the disputed domain name since it redirects to a website promoting online games and casinos.

The Complainant submits that the Respondent registered the disputed domain name in bad faith because the Complainant's trademark is well-known and it is thus inconceivable that the Respondent could have ignored the Complainant's earlier rights in the term BONDUELLE. The Complainant submits that the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant's trademark.

Moreover, the Complainant contends that, by using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website, further facilitated by the fact that the Respondent added the terms "inspired by", which only serves to increase the likelihood of confusion and association with the Complainant.

Lastly the Complainant underlines that even the fact that the Respondent concealed its identity behind a privacy service, is a clear presumption of bad faith registration and use.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the disputed domain name <inspiredbybonduelle.com> is confusingly similar to the Complainant's trademark BONDUELLE as it reproduces the core of the Complainant's trademark, constituted by the denominative element "bonduelle", in its entirety with the mere addition of the terms "inspired by" and the generic Top-Level Domain ".com", which as stated in a number of prior decisions rendered under the UDRP, are not sufficient to prevent a likelihood of confusion.
2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent has redirected the disputed domain name, clearly confusingly similar to the Complainant's trademark, to a website providing information on gambling and online casino services. Therefore, the Panel finds that the Respondent has not made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the disputed domain name. In view of the foregoing and in the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.
3. As to bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness and well-known character of the Complainant's trademark BONDUELLE, with which the disputed domain name is confusingly similar, the Respondent was very likely aware of the Complainant's trademark at the time of the registration of the disputed domain name. Indeed, the Respondent's registration of the disputed domain name, incorporating the Complainant's well-known trademark, suggests that the Respondent acted in opportunistic bad faith, with a deliberate intent to create an impression of an association with the Complainant.

Moreover, the Panel finds that, by pointing the disputed domain name to a website promoting online gambling services, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the trademark BONDUELLE as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name was also registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **INSPIREDBYBONDUELLE.COM**: Transferred

PANELLISTS

Name **Luca Barbero**

DATE OF PANEL DECISION **2021-08-17**

Publish the Decision
