

## Decision for dispute CAC-UDRP-105374

Case number CAC-UDRP-105374

Time of filing 2023-04-20 10:02:25

Domain names poweredbyeast.com

### Case administrator

Name Olga Dvořáková (Case admin)

### Complainant

Organization LESAFFRE ET COMPAGNIE

### Complainant representative

Organization NAMESHIELD S.A.S.

### Respondent

Organization Domain Sales - (Expired domain caught by auction winner) c/o Dynadot

#### 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 owns - among others - the following trademarks:

- French trademarks #poweredbyeast n° 4895166 registered since September 5, 2022;
- French trademarks #POWERED BY YEAST n° 4895558 since September 6, 2022.

#### FACTUAL BACKGROUND

The Complainant is a renown French multi-national and a multicultural company providing solutions for baking, food taste & pleasure, healthcare and biotechnology, which - in September 2022 - launched a new campaign named "#poweredbyeast".

The disputed domain name <poweredbyeast.com> was registered on February 24, 2023 and currently redirects to a webpage where the domain name is offered for sale for 4.995 USD.

#### PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

No administratively compliant Response has been filed.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

##### THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT'S TRADEMARK

The Panel finds that the disputed domain name <poweredbyeast.com> is confusingly similar - if not identical - to both the Complainant's earlier French trademarks #poweredbyeast and POWERED BY YEAST, since it exactly reproduces them.

The adding of the generic TLD .com surely does not eliminate the likelihood of confusion with the earlier trademarks.

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##### THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by LESAFFRE ET COMPAGNIE in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademarks #poweredbyeast and/or POWERED BY YEAST, nor to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Once such prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

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##### THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. This prima facie evidence was not challenged by the

Respondent.

When not rebutted by the Respondent, the registration of the disputed domain name seems to be targeting the Complainant and its registered trademarks specifically. This suggests the registration of the domain name in bad faith.

Further, the disputed domain name redirects to a webpage on the domain name marketplace Dan.com, in which <poweredbyeast.com> is offered for sale for 4.995 USD, an overall amount that is much more than the Respondent's reasonable out-of-pocket expenses in relation to the acquisition of the disputed domain names, and as such supports a finding of bad faith use.

In light of the above, the Complainant made out its case that the Panel confirms the disputed domain name was registered and used in bad faith, and thus has satisfied the requirement under paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **poweredbyeast.com**: Transferred

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## PANELLISTS

Name	<b>Tommaso La Scala</b>
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DATE OF PANEL DECISION **2023-05-29**

Publish the Decision

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