Decision for dispute CAC-UDRP-108087

Case number	CAC-UDRP-108087
Time of filing	2025-10-29 14:27:22
Domain names	theproteinbrewery.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	The Protein Brewery

Respondent

Name	Deepak Daftari

Respondent representative

Organization	Cylaw Solutions

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 has proved to own the following trademark rights, inter alia:

- European Union trademark THE PROTEIN BREWERY n°018137212, dated January 30, 2020.

The Complainants also owns the following domain name:

- <theproteinbrewery.nl > registered on October 16, 2019.

FACTUAL BACKGROUND

The Complainant, the Protein Brewery B.V is a Netherlands-based biotechnology company founded in January 2020, specialising in the development and production of sustainable, plant-based protein ingredients through advanced fermentation technology.

The trademark and name THE PROTEIN BREWERY were already in use in the food technology sector prior to the registration of the disputed domain name, according to the Complainant.

The Complainant submitted the following documents to prove the abovementioned facts:

- Exhibit A: EUIPO Certificate of Registration No. 018137212
- Exhibit B: Screenshot of domain parking/for-sale page
- Exhibit C: WHOIS record showing registration date of 31 December 2020
- Exhibit D: Screenshots of theproteinbrewery.nl showing Complainant's active use
- Exhibit E: Press coverage and evidence of Complainant's reputation and goodwill (articles from Green Queen, EY, Digital Food Lab, LinkedIn presence)
- Exhibit F: Evidence of Complainant's funding rounds and business operations

The Respondent is Deepak Daftari, the CEO of DD Web Vision Pvt. Ltd., based in Kolkata, India, specialised in domain name investment and buy-side brokering.

He began investing in domains in 2005 and has curated a portfolio that includes CoFounder.com, Mischief.com, and Majesty.com. He is also an investor across tech and food sectors, and is involved in health-adjacent ventures.

The disputed domain name <theproteinbrewery.com> was registered on December 31, 2020 and was purchased by the Respondent in January 2021, as stated by the Respondent himself.

The Respondent submitted the following documents:

- Annex 1: Affidavit and Profile
- Annex 2: Order Receipt of Domain Name
- Annex 3: Afternic Offer from the Complainant
- Annex 4: Whois-theproteinbrewery.com.
- Annex 5: Interview of the Respondent
- Annex 6: Other Domain Names
- Annex 7: Protein Directory
- Annex 8: Third Party Use
- Annex 9: USPTO Trademark and.NL
- Annex 10: Domain Name Sales History NameBio

PARTIES CONTENTIONS

A- Complainant’s Contentions

The Complainant submits that the disputed domain name is identical to its registered trademark THE PROTEIN BREWERY. The disputed domain name wholly reproduces the Complainant’s distinctive trademark, differing only by the absence of spaces, which is standard in domain name formatting, and the addition of the generic Top-Level Domain “.com”.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has never been authorized, licensed, or otherwise permitted to use the Complainant’s trademark, nor is the Respondent commonly known by the name “The Protein Brewery.” The disputed domain name has not been used in connection with any bona fide offering of goods or services, but merely resolves to a parking page offering the domain name for sale for USD 15,000, which exceeds the Respondent’s documented out-of-pocket costs. Such use does not constitute a legitimate non-commercial or fair use under the Policy.

Finally, the Complainant submits that the disputed domain name was registered and is being used in bad faith. The domain name was registered nearly one year after the Complainant’s trademark registration and after the Complainant had already established significant commercial activity and reputation under the trademark THE PROTEIN BREWERY. Given the timing and circumstances, the Respondent must have been aware of the Complainant’s rights at the time of registration. The Respondent’s passive holding of the domain name combined with its explicit offer for sale demonstrates that the primary purpose of the registration was to sell the domain name to the Complainant or a competitor for valuable consideration in excess of registration costs, constituting bad faith under paragraph 4(b)(i) of the Policy. The circumstances of this case further fall within established UDRP precedent on bad faith passive holding.

B- Respondent’s Contentions

The Respondent contends that the disputed domain name <theproteinbrewery.com> is composed exclusively of common, dictionary words that are descriptive in the food, nutrition, and fermentation industries. The terms “protein” and “brewery” are widely used to describe fermentation-based protein production, and their combination, preceded by the determiner “the,” does not uniquely identify the Complainant. As such, the disputed domain name is inherently descriptive and not exclusively associated with the Complainant.

The Respondent submits that it has rights and legitimate interests in the disputed domain name. The Respondent recalls the principle of “first-come, first-served”. The domain name was acquired in January 2021 as part of a long-standing and bona fide domain-name investment business focused on registering and holding descriptive and commercially valuable domain names. According to the Registrant, registering and holding common-word domain names for resale constitutes a legitimate business activity under the Policy, provided there is no targeting of a specific trademark owner. The Respondent denies having registered the

disputed domain name with the Complainant or its trademark in mind and states that it was unaware of the Complainant at the time of acquisition.

The Respondent further argues that the disputed domain name has not been registered or used in bad faith. There is no evidence that the Respondent had actual knowledge of the Complainant's trademark at the time of registration, and constructive knowledge is insufficient under the Policy. The Respondent did not solicit the Complainant to sell the domain name; rather, he thinks that the Complainant approached him with an unsolicited offer to purchase the domain name. A general offer to sell a domain name composed of descriptive terms, or responding to a purchase inquiry, does not constitute bad faith under paragraph 4(b)(i) of the Policy. Moreover, the doctrine of passive holding is inapplicable, as the disputed domain name is descriptive, does not target a well-known or highly distinctive mark, and is capable of plausible good-faith use.

Finally, the Respondent submits that the Complaint constitutes an attempt at reverse domain name hijacking, having been brought only after the Complainant failed to acquire the disputed domain name through commercial negotiations, despite the absence of evidence of bad faith registration or use.

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).

The Respondent has **NOT** shown the disputed domain name isn't 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).

The Respondent has **NOT** shown that he has 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).

The Respondent has **NOT** shown the disputed domain name has been registered and is being used in good 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.

The Panel observes that the Complainant appears to be relatively unfamiliar with UDRP proceedings, whereas the Respondent demonstrates a high degree of familiarity with the procedure.

PRINCIPAL REASONS FOR THE DECISION

Identity (paragraph 4(a)(i) of the Policy)

The Panel finds that the disputed domain name < theproteinbrewery.nl > is confusingly similar to the Complainant's THE PROTEIN BREWERY trademark.

Indeed, the Complainant's THE PROTEIN BREWERY trademark is incorporated in the disputed domain name in its entirety.

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark.

Absence of Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy)

The Complainant asserted that the Respondent has never been granted a license, or any other way been authorized, in order to register the disputed domain name. In addition, the Complainant has had no business relationship with the Respondent. Finally, the Respondent is not and has never been commonly known by the name "The Protein Brewery" or any similar designation. There is no indication the Respondent has any connection to protein production, brewing, food technology, or any related field.

The Panel further notes that the disputed domain name resolves to a parking page displaying no substantive content related to any genuine or independent business activity, while expressly offering the domain name for sale at the price of USD 15,000. The Respondent appears to be engaged in domain name investment activities. While domain name trading may, as such, constitute a legitimate commercial activity, it cannot, in itself, confer rights or legitimate interests within the meaning of the Policy where the domain name is identical to a third party's trademark.

The Respondent asserted that he acquired the disputed Domain Name as a domain investment composed of common words (Protein+Brewery) prefixed by "The." For the Respondent, "Protein brewery" is commonly understood to describe facilities that use fermentation. As such, the phrase is likely descriptive for goods/services related to fermentation-based protein production. Adding "The" does not typically overcome descriptiveness.

Nevertheless, the Panel recalls that "Panels have recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent […]. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for such use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights" (See WIPO Jurisprudential Overview 3.0, Section-2.10.1)

In the present case, the Respondent has failed to demonstrate any such genuine or intended use corresponding to the claimed dictionary meaning. The disputed domain name is used solely as a parking page and is offered for sale, without any substantive content, bona fide activity, or credible evidence of a legitimate business project connected to the alleged dictionary meaning.

Moreover, the Panel recalls that, in trademark law, a combination of generic terms may nevertheless give rise to a distinctive trademark when the combination as a whole departs from the ordinary meaning of its individual components. This is precisely the case here, as the Complainant's trademark has been duly registered and remains valid and uncontested to date. Consequently, the Respondent cannot rely on the alleged generic character of the individual terms to justify the registration and use of a domain name that reproduces the Complainant's distinctive trademark and takes unfair advantage of the Complainant's prior rights.

Finally, the Panel further notes that the Respondent relies on the "first come, first served" principle applicable to domain name registrations. While it is correct that domain names are, as a technical matter, allocated on a first come, first served basis, this principle is not absolute and does not operate in isolation from the rights of third parties. Thus, the Respondent cannot validly invoke this principle to establish rights or legitimate interests in a domain name whose registration and use conflict with the Complainant's earlier trademark rights.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Bad faith (paragraph 4(a)(iii) of the Policy.)

As a preliminary matter, the Panel recalls that the transfer of a domain name registration from a third party to the respondent is not a renewal and the date on which the current registrant acquired the domain name is the date a panel will consider in assessing bad faith (See WIPO Overview 3.0, section 3.9).

The Complainant asserted that the Respondent acquired a domain name identical to the Complainant's registered trademark, knowing or having reason to know of the Complainant's rights. The Respondent denies this allegation and maintains that it had no knowledge of the Complainant or its trademark when it bought the disputed Domain Name in 2021, and notes that the Complainant has provided no evidence to the contrary.

However, the Panel observes that the Respondent itself acknowledges being active in the food sector. Far from supporting the Respondent's position, this assertion tends to undermine the claim of lack of awareness, particularly where the Complainant had already commenced its commercial activities and had begun to acquire a degree of recognition in that same sector by January 2021.

In addition, the Respondent describes itself as a domain name investor with approximately twenty years of experience in the field. In the Panel's view, such long-standing experience necessarily entails a thorough knowledge of the domain name market and of the legal framework governing domain name registrations, including the mechanisms designed to protect third-party rights. In this context, the Panel considers that the Respondent's experience and knowledge of the domain name market should have led it to exercise particular caution and to conduct appropriate checks regarding the existence of prior trademark rights before acquiring the disputed Domain Name.

The argument that the Respondent lacked knowledge of the Complainant's trademark is therefore unconvincing, especially given that the Complainant's European Union trademark had been registered approximately one year prior to the Respondent's acquisition of the disputed Domain Name. The European Union constitutes one of the world's major markets, both in terms of consumption and number of consumers, and cannot reasonably be regarded as marginal or insignificant in this assessment.

Thus, the Panel recalls that a registrant is subject to a reasonable obligation of due diligence prior to acquiring a domain name, notably to verify whether such acquisition would infringe third-party trademark rights. In the present case, the Respondent's failure to undertake even basic checks before acquiring the disputed Domain Name constitutes a breach of that due diligence obligation and further supports the conclusion that the disputed Domain Name was acquired and is being used in bad faith within the meaning of the Policy (See WIPO Decision Kabushiki Kaisha ASICS v. SC Gaticonstruct Case No. DRO2008-0010; WIPO Decision Citigroup Inc. v. Andrew Robert Wilson, Andrew Robert Wilson Case No. D2021-1058).

Finally, the offer for sale of the disputed domain name for sale for USD 15,000, an amount which clearly appears to be valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name, in the present circumstances, gives rise to a clear case of bad faith use.

To the Panel's opinion, this shows that the disputed domain name was registered in bad faith.

Reverse Domain Name Hijacking

The Respondent claims that this proceeding appears to have been brought as a Plan B strategy, alleging that the Complainant initiated the UDRP only after having failed to acquire the disputed Domain Name through purchase negotiations, thus requesting a finding of Reverse Domain Name Hijacking.

The Panel will consider whether such a finding is appropriate pursuant to paragraph 15(e) of the Rules. Paragraph 15(e) of the Rules

provides that “if after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking … the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.”

The disputed Domain Name was offered for sale on a commercial domain name marketplace (Afternic) for USD 15,000. The evidence provided by the Respondent indicates that the initial contact regarding a potential purchase of the disputed Domain Name wasn’t initiated by the Respondent. In the course of these exchanges, the Respondent proposed several progressively lower asking prices, ultimately reducing the price to USD 3,500.

The Panel notes that the Respondent appears to assume that negotiations may have taken place with the Complainant. However, the evidence does not allow the Panel to determine with certainty the identity of the party that may have engaged in such discussions. The absence of clear evidence on this point does not constitute an abuse of process, especially since the complaint was not doomed to failure and was based on valid prior rights.

Consequently, the Panel rejects RDNH's request.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **theproteinbrewery.com**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2025-12-19

Publish the Decision