



DECISION OF THE THIRD-PARTY DECIDER

Caffè Borbone / Mikail Ozkan

Case no. 444246 / cafeborbone.be

1 The Parties

1.1 Complainant:

Caffè Borbone s.r.l.

Zona ASI Località Pascarola snc, 80023 Caivano, Naples (NA), Italy

Represented by: Mariacldia Del Peschio de la Societa Italiana Brevetti S.p.A., Piazza di Pietra 39, 00186 Roma (RM), Italy

Hereinafter referred to as "*the Complainant*".

1.2 Domain name holder:

Mikail Ozkan, Rue de Milmort 669, Milmort 4041, Belgium

Not represented

Hereinafter referred to as "*the Domain name holder*".

2 Domain name

Domain name: cafeborbone.be

Registered on: 4 April 2019

Hereinafter referred to as "*the Domain Name*".

3 Procedure

1. The Complainant filed its complaint with CEPANI on 19 June 2025.
2. In its complaint, the Complainant requests that the Domain Name be transferred to the Complainant and offers the possibility to the Domain name holder to voluntarily proceed with the execution of the relief sought within 7 calendar days.
3. On 24 June 2025, CEPANI notified the Parties of the commencement of the proceedings.
4. The Domain name holder has not submitted a response.
5. CEPANI appointed the Third-Party Decider on 22 July 2025 to settle the Domain Name dispute (Article 7.2 of the CEPANI Rules). The Third-Party Decider has submitted her declaration of independence, as required by CEPANI (Article 8 of the CEPANI Rules). CEPANI transmitted the case file to the Third-Party Decider on the same date (Article 10 of the CEPANI Rules).

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6. On 22 July 2025, CEPANI informed the Parties and the Third-Party Decider that (i) the deliberations would be closed within 7 days, i.e. by 29 July 2025 (Article 13 of the CEPANI Rules); and (ii) the Third-Party Decider should forward the decision to CEPANI within 14 days i.e. by 12 August 2025 (Article 16.2 of the CEPANI Rules).
7. The Third-Party Decider considers the file to be sufficiently complete to proceed to a decision.

4 Factual Background information

- The Complainant is a company named Caffè Borbone S.r.L. and holds several CAFFÈ BORBONE trademarks. The marks are used within Italy and internationally in connection with a range of coffee-related goods and services.
- For the purpose of this <.be> Domain Name dispute, the following registered [EU trade mark](#) (application no. 15670541) is relevant:



This trademark seems valid, its expiration date is 18 July 2026.

8. In addition, the Complainant relies on an international registration for the same figurative mark, designating the European Union (application no. 902614).
9. The Domain name holder is Mr. Mikail OZKAN.
10. The Domain Name immediately redirects to <https://lillocafe.be/nl>, hosting a website used the sale of BORBONE and CAFFÈ BORBONE-branded products. The administrator of this website and their link to the Domain name holder is unknown.

5 Position of the parties

5.1 Position of the Complainant

5.1.1 Identical or Confusing Similarity to Trademark and Company Name

11. The Complainant asserts that it holds prior rights in the company name "Caffè Borbone S.r.L." and the registered trademark "CAFFÈ BORBONE". The Complainant submits evidence in the form of trademark registrations and company registry extracts, including translations, to substantiate its rights.

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The Complainant contends that the disputed Domain Name CAFEBORBONE.BE is substantially identical or, at the very least, confusingly similar to the Complainant's trademark and company name:

- the minor variations in the Domain Name, specifically the omission of the letter "F" and the accent in "CAFE," are immaterial;
- "CAFE" and "CAFFÈ" are nearly identical in meaning and appearance; and
- "CAFÉ" only translates the Italian word "CAFFÈ" to the Spanish (*sic*) CAFÉ.

12. The Complainant further relies on established jurisprudence (CEPANI No. 44125), which holds that the domain name suffix ".be" is not relevant to the assessment of identity or confusing similarity.

5.1.2 The Domain name holder has no rights or legitimate interests in respect of the Domain Name

13. The Complainant maintains that the Domain name holder has no rights or legitimate interests in respect of the disputed Domain Name. The Complainant asserts that:

- the Domain name holder is not commonly known by the name "Café Borbone".
- He holds no trademark or company registrations for "CAFÉ/CAFFÈ BORBONE" or "BORBONE" in any form.
- The Complainant has not granted any license or authorization to the Domain name holder to register or use the disputed Domain Name.
- the Domain Name redirects to a website that falsely purports to be operated by "Café Borbone" and offers products bearing the Complainant's trademarks; this use is misleading and does not constitute a bona fide offering of goods or services, nor a legitimate non-commercial or fair use.
- False and misleading information is provided on the website regarding ownership and intellectual property rights.

5.1.3 The Domain Name has been registered or is being used in bad faith.

14. The Complainant contends that the disputed Domain Name was registered and is being used in bad faith, relying on the following reasoning:

- At the time of registration of the Domain Name, the Complainant's CAFFÈ BORBONE trademarks were already well established and widely recognized, both in Italy and internationally, such that the Domain name holder knew or should have known of the Complainant's prior rights.
- The Domain name holder has no connection to the Complainant's distinctive signs.
- "CAFFÈ BORBONE" is not a generic or descriptive term.
- The Domain Name CAFEBORBONE.BE incorporates, without authorization, the Complainant's registered trademark and company name; the minor omission of a letter and accent is insufficient to eliminate the likelihood of confusion.

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- The disputed Domain Name resolves to a website offering coffee products identical to those of the Complainant and bearing the Complainant's trademarks, without its authorisation.
 - The Domain name holder's actions deprive the Complainant of the opportunity to register the disputed Domain Name and exploit the reputation of the Complainant's trademark for commercial gain by creating a likelihood of confusion as to the source, sponsorship, or endorsement of the website.
15. The Complainant concludes by stating that the above circumstances, including the registration of a domain name corresponding to a third-party trademark, support a necessary inference of bad faith registration and use under the applicable policy.

5.2 Position of the Domain name holder

The Domain name holder has failed to serve a Response in this domain name dispute. Hence, the Complainant's allegations are uncontested.

6 Discussion and findings

16. The Third-Party Decider rules on domain name disputes with due regard for the Policy and the CEPANI rules for domain name dispute resolution (article 16.1 of the CEPANI rules for domain name dispute resolution).
17. Pursuant to Article 10b (1) of the Terms and conditions for .be domain name registrations, the Complainant must provide evidence of the following:
- i. *"the registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights; and*
 - ii. *the registrant has no rights or legitimate interests in the domain name; and*
 - iii. *the registrant's domain name has been registered or is being used in bad faith."*

6.1 The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

18. The Domain Name "cafeborbone.be" is essentially identical to the verbal element "Caffè Borbone" of Complainant's trademarks.

The mere omission of the letter "F" and the lack of an accent in "CAFE" are not sufficient to remove any confusing similarity between the Domain Name and the registered trademarks of the Complainant. Notably, "CAFE" is the French equivalent of the Italian word "CAFFÈ", and the two terms are almost indistinguishable in meaning and appearance. The main element "Borbone" is identical.

The fact that the Domain Name uses a translation rather than the original language does not eliminate the risk of confusion and can still be considered similar (CEPANI,



44244, jambondeparme.be, B. Docquir and O. De Preme, « L'enregistrement abusif des noms de domaine : aperçu de la jurisprudence des Tiers-décideurs du CEPANI » in *Les noms de domaine .be / .be domeinnamen*, Brussels, Bruylant, 2012, p. 48).

19. Furthermore, established precedent in domain name disputes makes it clear that the top-level domain, in this case ".be", does not influence the determination of whether a domain name is identical or confusingly similar to a trademark (see inter alia CEPANI cases No. 44168, 44191, 444166, 444175, and 444223).
20. It follows that the first condition is met.

6.2 The Domain name holder has no rights or legitimate interests in the Domain Name

21. The Complainant convincingly made the argument that the Domain name Holder has no rights or legitimate interests in the Domain Name.
22. Established case law clarifies that the Complainant is not required to prove a negative fact outright (see e.g. CEPANI case No. 444178, No. 444176, No. 444167 and No. 444140). Instead, it is sufficient for the Complainant to present arguments and evidence showing it is likely that the domain name holder lacks rights or legitimate interests. Once this prima facie case is made, the burden of proof shifts to the domain name holder, who may then provide relevant evidence to demonstrate their own rights or legitimate interests in the domain name. If the domain name holder does not provide such evidence, the complainant is considered to have satisfied this requirement (see e.g., CEPANI case No. 444185, 444203 and 444223). This approach recognizes that the complainant may not have access to all the necessary information, as much of it is within the domain name holder's control (CEPANI case No. 444227).
23. The Complainant affirms that it has not authorised the use of its trademarks for the registration and use of the Domain Name.
24. In the present matter, the Complainant has presented sufficient indications that the Domain name holder is not actually known under the name Café Borbone. He does not seem to have any economic activity under this name. The Complainant submits an extract from the Belgian company register, which establishes that no companies are currently registered under the name "Café Borbone" or "Borbone". A web search does not lead to any results linking the name "Café Borbone" to Mr. Ozkan or to the known address (rue de Milmort 669, 4041 Milmort Belgium).
25. The Domain Name is merely used to redirect visitors to the website <https://lillocafe.be>, which is used to offer various Caffè Borbone coffee products for sale. According to the Complainant, this is an "imposter site". Complainant presents several elements that the Caffè Borbone products are not legitimately distributed on that website.

The Domain name holder seems to use the Domain Name to divert consumers to this website, for commercial gain. According to the Complainant, the Domain name holder nor the administrator of the website hosted on <https://lillocafe.be> (regardless of their connection) have the right to the use of the Complainant's trademark for

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registering and using the Domain Name. As a consequence, the Domain name holder has no right or legitimate interest to the Domain Name.

26. The Domain name holder did not submit any response: he made no argument and provided no evidence that he holds any rights or legitimate interests to the Domain Name.

27. It follows that the second condition is met.

6.3 The Domain name holder's Domain Name has been registered or is being used in bad faith

28. Bad faith in the context of domain name disputes refers to situations where a domain name holder registers or uses a domain name with the intention of taking unfair advantage of a Complainant's trademark (CEPANI case No. 444227). Bad faith is considered a factual matter and can be established by any reasonable means, including presumptions or circumstances that provide a reasonable degree of certainty about its existence (CEPANI case No. 444102).

29. For a finding of bad faith, it suffices that the domain name was registered in bad faith or is used in bad faith; these are alternative, not cumulative criteria (see CEPANI Case No. 444140). The mere demonstration of use in bad faith is sufficient, irrespective of whether bad faith existed at the time of registration (see CEPANI Case No. 44208).

30. The circumstances enumerated in Article 10.b.2 of DNS Belgium's Terms and conditions are not exhaustive (CEPANI case No. 444102). In the present case, the use of the Domain Name seems to fit the fourth case set out in article 10.b) 2 of the DNS Belgium terms and conditions.

31. It is established that the Domain name holder has registered the Domain Name to take advantage of the Complainant's trademarks and the associated international reputation of the Caffè Borbone products:

- At the time of the Domain Name's registration on 4 April 2019, the Complainant's business and trade marks CAFFÈ BORBONE were already well established. The reputation of the Complainant's trade marks prior to the registration of the disputed Domain Name is further evidenced by the WIPO decision in Case No. D2022-0824, Caffè Borbone S.r.l. v. Beats, Beats / KAI.
- The Domain Name merely redirects users to a website "Lillo Café", hosted on <https://lillocafe.be>, where Caffè Borbone products, capsules, and machines (identical to those offered by the Complainant) are sold. By doing so, the Domain name holder has intentionally used the Domain Name to attract, for commercial gain, internet users to this website, by creating confusion with the Complainant's trademarks as to the source, affiliation, or endorsement of that website and/or the products sold on that website.

32. Finally, the Domain name holder's failure to respond to the complaint is also a strong indication of his bad faith in the registration or use of the Domain Name (CEPANI case No. 444121).

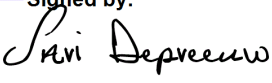


33. It follows that the third condition is met.

7 Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the domain name registration for the "**CAFEBORBONE.BE**" domain name is to be transferred to the Complainant.

Brussels, 8 August 2025.

Signed by:

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Sari DEPREEUW

The Third-party Decider

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