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WIPO Arbitration and Mediation Center  
Zaak-/rolnummer: DNL2015-0013  
Datum: 4 april 2015

## 1. The Parties

The Complainant is Thuisbezorgd.nl B.V. and Takeaway.com B.V. of Utrecht, the Netherlands, represented by Merkenbureau Knijff & Partners B.V., the Netherlands.

The Respondent is Heather Briggs of Lewes, United States of America.

## 2. The Domain Name and Registrar

The disputed domain name <thuisbezord.nl> (the “Domain Name”) is registered with SIDN through Key-Systems GmbH.

## 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 2015. On February 19, 2015, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name. On February 23, 2015, SIDN transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center verified that the Complaint satisfied the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 24, 2015. In accordance with the Regulations, article 7.1, the due date for Response was March 16, 2015. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 17, 2015.

The Center appointed Willem Hoorneman as the panelist in this matter on March 24, 2015. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

## 4. Factual Background

The Complainant is the owner of the following Benelux trademark registrations:

- Wordmark THUISBEZORGD.NL, No. 877664, registered on March 8, 2010;
- word/devicemark THUISBEZORGD.NL, No. 811741, registered on November 16, 2006;
- word/devicemark THUISBEZORGD.NL, No. 815830, registered on January 19, 2007.

The Complainant is also owner of the trade name “Thuisbezorgd.nl”.

The Domain Name was registered by the Respondent on November 24, 2014 (by change of registrant) and resolves to a pay-per-click (“PPC”) parking page.

## 5. Parties' Contentions

### A. The Complainant

The Complainant asserts that the disputed domain name <thuisbezord.nl> is almost identical and (therefore) confusingly similar to the registered trademark THUISBEZORGD.NL and trade name Thuisbezorgd.nl. These rights have not been licensed to the Respondent and the Respondent has no other rights to or legitimate interests in the disputed domain name.

The Complainant further asserts that the registration of the disputed domain name is an act of bad faith. The Respondent takes unfair advantage of the Complainant's rights as is shown by the deliberate typo by the Respondent (the letter "g" having been left out of the Domain Name).

### B. The Respondent

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

As the Respondent has not filed a response, the Panel shall rule on the basis of the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or fact. The Panel is entitled to further inform itself by limited reference to matters of public record (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition, paragraph 4.5).

The Panel notes that, in accordance with article 16.4 of the Regulations, the Center has fulfilled its obligation to employ reasonably available means to achieve actual notice of the Complaint to the Respondent.

Pursuant to article 2.1 of the Regulations, the Complainant's request to transfer the Domain Name must meet three cumulative conditions:

- the Domain Name is identical or confusingly similar to a trademark or trade name protected under Dutch law in which the Complainant has rights, or other name by means of article 2.1(a) under II of the Regulations; and
- the Respondent has no rights to or legitimate interests in the Domain Name; and
- the Domain Name has been registered or is being used in bad faith.

Considering these conditions, the Panel rules as follows:

### A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the THUISBEZORGD.NL trademarks based on its Benelux trademark registrations.

It is a well-established rule that a domain name which contains a common or obvious misspelling of a trademark (so-called "typo-squatting") will normally be found to be confusingly similar to such trademark, where the misspelled trademark remains the dominant or prominent element of the domain name (*Fuji Photo Film U.S.A., Inc. v. LaPorte Holdings*, WIPO Case No. D2004-0971). In this case, the only difference between the disputed domain name <thuisbezord.nl> and the Complainant's THUISBEZORGD.NL trademarks is the removal of the letter "g". The Panel therefore finds that the Domain Name is confusingly similar to the Complainant's trademarks.

### *B. Rights or Legitimate Interests*

The Complainant alleges that the Respondent has no rights to or legitimate interests in the Domain Name. The Respondent, by failing to file a response, did nothing to dispute this contention nor to provide information as to its interests in using the Domain Name.

Aside from the fact that no reply was filed, there seems very little the Respondent might have relied upon. The word “thuisbezord” has no common meaning in the Dutch language, and the Panel finds that the Respondent has no rights to or legitimate interests in the domain name.

### *C. Registered or Used in Bad Faith*

It is difficult to conceive that the Respondent chose to register the domain name <thuisbezord.nl> by accident. The Respondent was obviously aware of the Complainant’s established rights in the THUISBEZORGD.NL trademarks when it registered the disputed domain name on November 24, 2014. The Respondent’s website as of the filing of the Complaint is a PPC parking page that contains links to the Complainant’s website as well as websites of competitors’ products. This supports a finding of bad faith registration. *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. HostMonster.com INC / Stephen Lee*, WIPO Case No. D2010-1355. See also, *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. D2000-0163 (use of a name connected with such a well-known product by someone with no connection with the product suggests opportunistic bad faith).

The Panel finds that the Domain Name was registered in bad faith and with the intention of causing confusion with the word mark and the Complainant’s Domain Name and in an attempt to divert Internet traffic otherwise rightfully bound for the Complainant (*Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. D2006-1043).

## **7. Decision**

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <thuisbezord.nl> be transferred to the Complainant.

Willem Hoorneman  
Panelist