

ADMINISTRATIVE PANEL DECISION

Belfius Bank S.A. / Belfius Bank N.V. v. mi mang

Case No. D2022-1866

1. The Parties

The Complainant is Belfius Bank S.A. / Belfius Bank N.V., Belgium, represented internally.

The Respondent is mi mang, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <belfius-onlinebankieren.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2022. On May 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 31, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 3, 2022.

The Center appointed Christian Schalk as the sole panelist in this matter on August 9, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

The Complaint was properly notified to the Respondent in accordance with paragraph 2(a) and (b) of the Rules.

4. Factual Background

The Complainant is Belgian bank and financial services provider with more than 5000 employees and over 650 agencies in this country. Although activities of the Complainant are focused on the Belgian territory it sponsors also national sports events and sport teams receiving International attention.

The Complainant owns trademark rights in the term BELFIUS, including:

- European Union trademark No. 010581205 for BELFIUS, filed on January 23, 2012 and registered on May 24, 2012, covering goods and services in Intl. classes 9, 16, 35, 36, 41 and 45:
- Benelux trademark registration No. 914650 for BELFIUS, filed on January 23, 2012 and registered on May 10, 2012; covering goods and services in Intl. classes 9, 16, 35, 36, 41 and 45.

The Complainant owns also around 200 domain names which incorporate the BELFIUS trademark, such as <belfius.be> and <belfius.com>.

The Respondent registered the disputed domain name on February 7, 2022. The disputed domain name is neither connected to a website nor does it redirect to third party websites.

The Complainant sent a cease and desist letter to the Respondent on May 31, 2022 which remained unanswered.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant argues in this context that the disputed domain name is composed of the complete incorporation of the Complainant's trademark BELFIUS combined with the English non-distinctive generic term "online" and the Dutch non-distinctive generic term "bankieren" which means "banking" in the English language. The Complainant believes that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark and refers in this context to *Britannia Building Society v. Britannia Fraud Prevention*, WIPO Case No. [D2001-0505](#) in order to support this argument. The Complainant states further that the addition of the English word "online" and the Dutch term "bankieren" does not lessen the inevitable confusion of the disputed domain name with the Complainant's trademark BELFIUS.

The Complainant alleges also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that the Complainant's trademark registrations for BELFIUS predate the Respondent's registration of the disputed domain name, that the Respondent is in no way associated with the Complainant and that the Complainant has not licensed, approved or in any way consented to the Respondent's registration and use of the trademark in the disputed domain name.

The Complainant argues further that the Respondent has no trademark rights in BELFIUS and that there is no reason why the Respondent should adopt this word combination in a domain name. The Complainant believes further that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent is not making any use of it in connection with an active website or even indicating demonstrable preparations to use the disputed domain name. The Complainant refers in this context to *American Home Products Corporation v. Ben Malgioglio*, WIPO Case No. [D2000-1602](#); *Vestel Elektronik Sanayi ve Ticaret AS v. Mehmet Kahveci*, WIPO Case No. [D2000-1244](#); *Red Bull GmbH v. Credit du Léman SA*, *Jean-Denis Deletraz* WIPO Case No. [D2011-2209](#)) when he argues that passive holding or non-use of domain names is, in appropriate circumstances, evidence of lack of rights or legitimate interests in such domain names.

The Complainant alleges finally that the disputed domain name was registered in bad faith and is being used in bad faith. The Complainant argues in this context that the Respondent either knew or should have known about the Complainant's trademarks. Had the Respondent conducted some good faith searches in the Internet before registering the disputed domain name it would have readily found reference to the Complainant and appreciated the likelihood of confusion between the disputed domain name and the Complainant. Furthermore, the fact that the disputed domain name incorporates not only the trademark BELFIUS but also the terms "online" and "bankieren" is for the Complainant a clear indication that the Respondent was aware of the Complainant.

The Complainant believes also that the disputed domain name is used in bad faith. The fact that nothing has been done with the disputed domain name cannot be considered as a *bone fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. The Complainant explains further that since the Respondent has no rights nor legitimate interests in the disputed domain name, the Respondent cannot pretend that it will use the disputed domain name in good faith. There is also no evidence of use, demonstrable preparations to use the disputed domain name.

With regard to passive holding the Complainant refers to previous UDRP panel decisions which found that passive holding of domain names may amount to bad faith when it is difficult to imagine any plausible future active use of the dispute domain name by the Respondent which would be legitimate and not infringing the Complainant's well-known mark and cites in this context *Inter-IKEA v. Polanski*, WIPO Case No. [D2000-1614](#); *Inter-IKEA Systems B.V. v. Hoon Huh*, WIPO Case No. [D2000-0438](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). The Complainant contends further that other indications of bad faith use of the disputed domain name are the concealment of the Respondent's identity and the provision of incomplete contact details which renders an effective trademark protection unnecessarily difficult.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established trademark rights in the trademark BELFIUS. The disputed domain name is not identical to the Complainant's trademark. However, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

As it has been decided by previous UDRP panels, incorporating a trademark in its entirety can be sufficient to establish that a domain name is confusingly similar to a registered trademark (see section 1.8 of the WIPO

Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), and cases cited therein).

Furthermore, in accordance with many decisions rendered under the Policy, the addition of terms to a trademark does not prevent a finding of confusing similarity where the trademark remains recognizable within the domain name (see section 1.8 of the [WIPO Overview 3.0](#)). Therefore, the addition of the terms “online” and “bankieren” (which is the Dutch term of “banking”) in the disputed domain name cannot prevent a finding of confusing similarity.

Furthermore, the “.com” Top-Level Domain suffix in the disputed domain name does not affect the determination that the disputed domain name is confusingly similar to the BELFIUS trademark in which the Complainant has rights (see also *Compagnie Générale des Etablissements Michelin v. Trendimg*, WIPO Case No. [D2010-0484](#); *Köstrizer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#); and *Laboratoire Pharmafarm (SAS) v. M. Sivaramakrishan*, WIPO Case No. [D2001-0615](#) and cases cited therein).

For all these reasons, the Panel finds that the Complainant has fulfilled the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Based on the submissions and materials filed in this case, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

It is the consensus view of UDRP panels that once the complainant has made out a *prima facie* showing on this element, the burden of production shifts to the respondent (see also section 2.1 of the [WIPO Overview 3.0](#)).

The Respondent has not provided any evidence of circumstances specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to rights to or legitimate interests in the disputed domain name. Specifically, the Panel finds no evidence that the Respondent has been or is commonly known by the disputed domain name. The Respondent is neither affiliated with the Complainant nor has a license to use its trademark. The Respondent has also not rebutted the Complainant’s allegations and has not provided the Panel with any explanations as to the Respondent’s rights or legitimate interests.

Furthermore, the fact that the word BELFIUS appears to be an invented word, and as such is not one traders would legitimately choose unless seeking to create an impression of an association with the Complainant, the Panel cannot see any rights or legitimate interests of the Respondent in the disputed domain name (*Telstra Corporation Limited v. Nuclear Marshmallows, supra*).

In this case, the composition of the disputed domain name incorporating the Complainant’s BELFIUS trademark with the English term “online” and the term “bankieren” (the Dutch term for “banking”: its translation into English means “BELFIUS online banking”) suggests that any website to which the disputed domain name pretends to resolve gives access to services offered by the Complainant. This creates the impression among Internet users that such a website is either one of the Complainant’s websites or of an entity somehow linked with the Complainant while this is not the case. See section 2.5.1 of the [WIPO Overview 3.0](#).

Moreover, the disputed domain name does not resolve to any active website and has in fact been suspended, as the Respondent has failed to allow the Registrar to verify its contact details provided during the registration of the disputed domain name. Such behaviour cannot constitute a *bona fide* or legitimate noncommercial or fair use of the disputed domain name (see also *Bright Imperial Ltd. v. Cleiton da Silva Pardim*, WIPO Case No. [D2013-1548](#)).

The Complainant has therefore fulfilled the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain names in bad faith. The Policy, paragraph 4(b) sets forth four non-exclusive circumstances, which evidence bad faith registration and use of domain names:

- (i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has 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 mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

According to the materials brought before the Panel, the Panel finds that the disputed domain name has been registered and is used by the Respondent in bad faith.

It is a principle considered under prior UDRP decisions (see, for instance, *Carolina Herrera, Ltd. v. Alberto Rincon Garcia*, WIPO Case No. [D2002-0806](#); *Six Continents Hotels, Inc. v. Seweryn Nowak*, WIPO Case No. [D2003-0022](#)) and under the Policy (see paragraph 2), that a domain name registrant represents and warrants to the concerned registrar that to its knowledge, the registration of the domain name will not infringe the rights of any third party.

The Panel finds that the Respondent must have been aware of the Complainant's trademark and its products when it registered the disputed domain name. A simple search in a search engine such as Google or Bing reveals many references to the Complainant already on the first two pages of such a search list and would have made the Respondent immediately aware of the Complainant. Moreover, considering that the added terms "online" and "bankieren" are associated with the Complainant's services, the composition of the disputed domain name further reinforces the finding of the Respondent's awareness of the Complainant and its intent to mislead Internet users through the confusingly similar disputed domain name. Therefore, the Panel is convinced that the Respondent was aware of the Complainant when registering the disputed domain name and that the BELFIUS trademark has been chosen by the Respondent in order to create an impression of an association with the Complainant.

Having regard to the material brought before the Panel, the disputed domain name is currently not in use. According to section 3.3 of the [WIPO Overview 3.0](#) it is consensus view that the lack of active use of the domain name does not as such prevent a finding of bad faith and that the panel must examine all the circumstances of the case to determine whether respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include among others the complainant's well-known trademark, no response to the complaint,

concealment of identity and the impossibility of conceiving of a good faith use of the domain name.

The disputed domain name incorporates the Complainant's BELFIUS trademark in its entirety. The Complainant has a strong commercial presence in Belgium as well as on the Internet. Given its sponsoring of Belgian national sport teams, there is also awareness of the Complainant also in other countries during high level sport events. In addition, the BELFIUS trademark is a distinctive term with no meaning. The composition of the disputed domain name suggests that it resolves to a website where Internet users could have access to the Complainant's online services. The only conclusion which Internet users could draw from the composition of the disputed domain name is that such website is either of the Complainant itself or of the companies somehow affiliated with the Complainant while this is not the case. Therefore, the Panel cannot conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

Furthermore, the Respondent has apparently also provided inaccurate contact details when it registered the disputed domain name or failed at least to correct such false contact details. The delivery of the Center's written communication failed because the contact details including the Respondent's alleged physical address were not accurate. Therefore, the Panel notes that the Respondent may have given incorrect contact details to frustrate or at least to delay this proceeding (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Accordingly, in light of the circumstances, the Panel finds that the Respondent has engaged in the bad faith registration and use of the disputed domain name.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <belfius-onlinebankieren.com> be transferred to the Complainant.

/Christian Schalk/

Christian Schalk

Sole Panelist

Date: August 21, 2022