

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Host Master, 1337 Services LLC
Case No. D2023-0618

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, internally represented.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <onlinebelfiusdomein.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 13, 2023, 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 February 14, 2023.

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 sent notification to the Respondent of the Complaint, and the proceedings commenced on February 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2023. The Respondent did not submit any response. Accordingly, the Center has sent notification of the Respondent’s default on March 8, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on March 15, 2023. 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.

4. Factual Background

The Complainant is a Belgian bank and financial services provider, with a workforce of over 5,000 employees and operates a network of 650 branches while being wholly owned by the government. While its principal focus lies on the domestic Belgian market, the Complainant's trademark enjoys international recognition through its sponsorship of national sports teams and events. The Complainant holds ownership of multiple trademarks that incorporate the term BELFIUS, a coined expression that amalgamates elements of Belgium, finance, and the English word us.

The Complainant owns numerous trademarks consisting in all or in part of the term "BELFIUS", such as:

- European Union verbal trademark BELFIUS reg. No. 010581205, registered on May 24, 2012 in classes 9, 16, 35, 36, 41 and 45 with a priority date as of January 23, 2012; and
- Benelux verbal trademark BELFIUS reg. No. 914650 registered on May 10, 2012 in classes 9, 16, 35, 36, 41 and 45 with a priority date as of January 23, 2012.

The Complainant holds registration for the domain names <belfius.be> and <belfius.com>, which serve as their official website for providing banking and insurance services, as well as for institutional partners and journalists. The Complainant also possess numerous other domain names containing BELFIUS.

On January 11, 2023, January 24, 2023 and February 13, 2023, the Complainant sent cease and desist letters to the registrar, highlighting the risks that the disputed domain name had been registered for phishing purposes, inviting it to put the domain name on hold and transfer it in its favor. The registrar did not respond.

The disputed domain name was registered on December 14, 2022, and at the time of filing of the complaint, it did not resolve to an active webpage and referred to a Google warning note for fishing attempt "Deceptive site ahead".

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name incorporates the Complainant's trademark BELFIUS in its entirety, combined with non-distinctive generic term "online" and the Dutch word "domein". According to established practices, such incorporation may be sufficient to establish that the disputed domain name is identical or confusingly similar to the Complainant's registered trademarks. The addition of non-distinctive terms does not lessen the confusion; instead, it strengthens the association with the Complainant's BELFIUS trademarks. The disputed domain name is likely to make Internet users assume that the associated website offers services supplied by the Complainant.

The Complainant asserts the Respondent holds no rights or legitimate interests in the disputed domain name. The Complainant's BELFIUS trademarks predate the Respondent's registration of the domain, and there is no association, licensing, or approval between the two parties. The Respondent has no trademark rights for BELFIUS and does not seem to conduct any relevant activity. Furthermore, the Respondent is not making legitimate noncommercial or fair use of the disputed domain name, as it is not associated with an active website, but rather a Google alert for phishing is shown when accessing the domain name. Passive holding or non-use of domain names can be evidence of a lack of rights or legitimate interests, as shown by previous WIPO UDRP cases. Thus, there is no evidence to demonstrate any rights or legitimate interests in the disputed domain name.

The Complainant has a European trademark registered since 2012, while the disputed domain name was registered on December 14, 2022. The Respondent should have known about the Complainant's trademarks and the likelihood of confusion. The Complainant has a substantial Internet presence,

registering more than 200 gTLDs and ccTLDs worldwide. The Respondent's awareness of the Complainant's trademarks rights at the time of registration suggests bad faith.

The Complainant argues that the Respondent has not used the disputed domain name for any lawful purposes. Such use cannot be considered a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The Respondent's identity appears fictitious, and there is no evidence of legitimate business, use, or demonstrable preparations to use the disputed domain name. Passive holding of the disputed domain name may amount to bad faith when it is difficult to imagine any plausible future active use that would be legitimate and not infringing on the Complainant's well-known trademarks.

Additionally, the concealment of the Respondent's identity is an indication of bad faith, as it makes it difficult for the Complainant to protect its trademark rights. The failure to reply to the Complainant's cease and desist notices supports an inference of bad faith. The passive holding or non-use of the disputed domain name, combined with the provision of incomplete contact details and the impossibility to conceive any plausible actual or contemplated active use in good faith, constitutes bad faith use.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used by the Respondent in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.2.1).

It has been established in the present case that the Complainant, who owns the European and Benelux trademark registration for the sign BELFIUS, has demonstrated its rights in these trademarks through previous trademark registrations predating the disputed domain name by at least a decade. Despite the addition of the terms "online" and the Dutch word "domein" (which translates to "domain" in English), the mere fact that the disputed domain name wholly incorporates the Complainant's trademarks may suffice to establish confusing similarity under the Policy. The inclusion of additional terms, regardless of their descriptive, geographical, pejorative, or meaningless nature, does not preclude a finding of confusing similarity, as indicated in section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)). Taking into account all of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s BELFIUS trademarks.

The Complainant’s BELFIUS trademarks are clearly recognizable within the disputed domain name and accordingly, the Panel finds that the Complainant has satisfied the first requirement that the disputed domain name is identical or confusingly similar to the Complainant’s registered trademark, under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

As stated by the Complainant, it appears that there is no association or connection between the Respondent and the Complainant, and the Complainant has not granted any permission or license to the Respondent to register or use any domain name incorporating the Complainant’s trademarks.

The Respondent failed to provide any evidence of authorization to use the BELFIUS trademarks or to register a domain name containing BELFIUS trademarks. The Respondent’s failure to respond to the Complaint has resulted in a lack of information or evidence that could potentially substantiate any prior rights or legitimate interests in the disputed domain name. Additionally, there is no indication of the Respondent engaging in any *bona fide* or noncommercial activities with the disputed domain name.

The Panel finds that the nature of the disputed domain name, which consists of the Complainant’s BELFIUS trademarks and of the additional generic terms “online” and “domein”, strongly indicates the affiliation with the Complainant and for that reason a fair use cannot be constituted when the disputed domain name effectively impersonates or suggests affiliation with the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires a complainant to demonstrate that the respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the 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) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 the respondent's website or location or of a product or service on its website or location.

The Panel finds that the Respondent registered the disputed domain name in bad faith. The Respondent was aware of the Complainant's numerous BELFIUS trademarks at the time of registration, as reflected in the choice of the disputed domain name.

Concerning the online aspect, an online connection to financial services or a bank pertains to the offering of financial services or banking-related operations through online platforms. These may consist of online banking, mobile banking, online payment processing, and online trading. In addition, the domain aspect refers to the usage of domain names by financial institutions to establish an online presence and provide a secure environment for customers to access financial services. The presence of the terms "online" and "domein" in the disputed domain name, which are closely related to the Complainant's activities, indicates the Respondent's knowledge of the Complainant and its trademark. The Respondent's failure to provide any explanation further reinforces the finding of bad faith registration. Therefore, the Panel concludes that the disputed domain name was registered in bad faith.

The disputed domain name was redirected to a website, with the only content of a Google alert for phishing "Deceptive site ahead" shown when accessing the domain name. Use of a domain name for phishing, identity theft, or malware distribution may constitute bad faith ([WIPO Overview 3.0](#), section 3.4).

As described under paragraph 4(b)(iv) of the Policy, the Respondent is therefore using the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's BELFIUS trademarks.

Furthermore, the Complainant's BELFIUS trademarks should be observed as trademarks that are distinctive and that enjoy certain level of reputation; the Respondent has failed to provide any response to the Complaint and has therefore failed to provide any justification for the registration and use of the disputed domain name. Based on the foregoing reasons, the Panel finds that the disputed domain name in the present case should be observed as use in bad faith.

The Panel concludes that the disputed domain name was registered and used in bad faith and that consequently, the Complainant has satisfied the requirement under paragraph 4(a)(iii) of the Policy.

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 <onlinebelfiusdomein.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: March 29, 2023