

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Rasta Clart
Case No. D2023-1842

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, represented by Constance Dumortier, Belgium.

The Respondent is Rasta Clart, United States of America.

2. The Domain Name and Registrar

The disputed domain name <belfius-smsaanzetten.buzz> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2023. On April 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 25, 2023, the Registrar 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 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 May 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 2, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Belgian bank and financial services provider. It has more than 5.000 employees and over 650 agencies. Its trademark is also known outside Belgium as the Complainant sponsors several national sports teams and sports events.

The Complainant owns numerous trademarks incorporating “BELFIUS”, for example European Union trademark registration number 010581205 registered on May 24, 2012. The Complainant has different domain names and websites, including “www.belfius.be” and “www.belfius.com”.

The Respondent registered the Domain Name on October 9, 2022. At the time of the Complaint, the Domain Name did not resolve to an active webpage.

5. Parties’ Contentions

A. Complainant

Based on the assumption that the language of the registration agreement is Russian, the Complainant argues for English to be the language of the proceedings. The language of the registration agreement is in fact English. The Panel confirms therefore that the language of the proceedings is English.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. The Complainant provides evidence of trademark registrations and argues that its trademark is an invented word. The Domain Name incorporates the Complainant’s trademark with the addition of the descriptive term “sms”, the Dutch verb “aanzetten” (in English as “to activate”). It does not lessen the confusion.

The Complainant argues that the Respondent is not recognized as an authorized third party, nor recognized as authorized to use the Complainant’s trademark or corporate name. The Respondent is not commonly known by the name BELFIUS. The Respondent’s passive holding or non-use of the Domain Name is evidence of a lack of rights or legitimate interests.

The Complainant suggests that the Respondent has been or should have been aware of the Complainant and its trademark when the Respondent registered the Domain Name. Based on the composition of the Domain Name, the Complainant finds it inconceivable that the Respondent did not have the Complainant in mind. The fact that the Domain Name has not resolved to an active webpage does not change this, as the passive holding of the Domain Name amounts to bad faith under the doctrine of passive holding. The Respondent has left incomplete contact details and not offered any explanation to the registration of the Domain Name, and it is impossibility to conceive any plausible actual or contemplated active good faith use of the Domain Name by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has established that it has rights in the trademark BELFIUS. The Domain Name incorporates the Complainant's trademark, adding "-smsaanzetten". The addition does not prevent a finding of confusing similarity between the Domain Names and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

It is likely from the inventive nature of the Complainant's trademark and the composition of the Domain Name that the Respondent knew of the Complainant and its prior rights when the Respondent registered the Domain Name.

The fact that the Domain Name has not resolved to an active webpage does not under doctrine of passive holding prevent a finding of bad faith. The Respondent has failed to provide any evidence of good-faith use. The Panel finds it implausible that the Respondent may put the Domain Name into any good faith use. The Respondent has also listed incomplete contact details. Under the circumstances, this is further indication of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of 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 the Domain Name <belfius-smsaanzetten.buzz> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: June 22, 2023