

ADMINISTRATIVE PANEL DECISION

Belfius Bank S.A. / Belfius Bank N.V. v. Domain Administrator, See PrivacyGuardian.org / kjnk kjnkjn and kjnkj jkn
Case No. D2022-1080

1. The Parties

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

The Respondents are Domain Administrator, See PrivacyGuardian.org, United States of America / kjnk kjnkjn, Netherlands and kjnkj jkn, Netherlands.

2. The Domain Names and Registrar

The disputed domain names <belfiussss.xyz>, <belfius-ss.xyz>, and <belfius-s.xyz> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2022. On March 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 30, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on March 31, 2022, providing the registrants 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 April 21, 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 Respondents of the Complaint, and the proceedings commenced on April 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on May 16, 2022.

The Center appointed Fabrice Bircker as the sole panelist in this matter on May 30, 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.

4. Factual Background

The Complainant is a Belgian bank and financial services provider counting approximately 5,000 employees and 650 agencies.

It is known under the name BELFIUS, which is notably protected through the following trademark:

BELFIUS, European Union Trade Mark registration No. 10581205, filed on January 23, 2012, registered on May 24, 2012, duly renewed in 2022, and protecting products and services of classes 9, 16, 35, 36, 41, and 45.

The Complainant has also an online presence through domain names such as <belfius.be> or <belfius.com>, respectively registered since January 23, 2012 and January 20, 2012.

Nothing is known about the Respondents¹ excepting that, according to the information provided by the Registrar, they are located in Netherlands.

The registration dates and registrants of the disputed domain names are as follows:

- <belfiussss.xyz>: registered on January 25, 2022 in the name of kjnk jkn;
- <belfius-ss.xyz>: registered on February 16, 2022 in the name of kjnk kjnkjn; and
- <belfius-s.xyz> : registered on February 16, 2022 in the name of kjnk kjnkjn.

At the time of drafting this decision, all the disputed domain names are inactive.

However, it results from the case file that, previously, when typed in the URL address bar of the Web browser, they triggered a warning message indicating that the Internet user is facing a deceptive website liable to trick the latter in conducting him/her to install software or to reveal personal information.

5. Parties' Contentions

A. Complainant

The Complainant introduces itself as a renown Belgian bank and requests the consolidation of the Complaint for all the disputed domain names and the transfer of the latter.

In substance, its main arguments can be summarized as follows:

Identical or Confusingly Similar

The Complainant notably submits that the disputed domain names are confusingly similar to its BELFIUS trademark as it is incorporated in them its entirety and remains recognizable.

The Complainant adds that the addition of one or several "s" whether or not hyphenated, and of the generic Top-Level Domain ("gTLD") ".xyz" cannot prevent a finding of confusing similarity.

¹ The Respondents are collectively identified hereafter as "the Respondent" unless it is necessary to refer to them separately.

Rights or Legitimate Interests

First, the Complainant contends that its BELFIUS trademark registrations predate the registration of the disputed domain names.

In addition, the Complainant asserts that it has not licensed, approved or in any way consented to the Respondent's registration and use of the disputed domain names.

Then, the Complainant puts forward that the Respondent has no trademark rights on "belfius" and does not seem to carry out any legitimate activity.

Besides, the Complainant claims that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names because it is not using them in connection with an active website and does not prevail itself of demonstrable preparations of use.

Registered and Used in Bad Faith

First, the Complainant claims that its BELFIUS trademarks are prior to the disputed domain names.

The Complainant adds that if the Respondent would have conducted some good faith searches before registering the disputed domain names, it would have readily found reference to the Complainant's rights.

The Complainant concludes from this situation that the Respondent had or should have had knowledge of the BELFIUS trademark when it registered the disputed domain names.

The Complainant also puts forward that, as its BELFIUS trademark is a coined term, the registration of the disputed domain names, which all incorporate it in its entirety, cannot be a mere coincidence.

Besides, the Complainant contends that the passive holding of the disputed domain names amounts to bad faith use because it is difficult to imagine any plausible future active use of them by the Respondent.

Moreover, the Complainant claims that the concealment of the Respondent's identity is an indication of bad faith, as this was not inspired by a legitimate need to protect its identity but solely to make it difficult for the Complainant to enforce its trademark rights.

Furthermore, the Complainant argues that the Respondent did not reply to the cease and desist notice it sent, what supports an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue – Consolidation of multiple domain names and Respondents

The Complaint relates to three disputed domain names that the Complainant wishes to have dealt with in a single administrative procedure.

Paragraph 10(e) of the Rules states that "[a] Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules".

The main criteria used to determine whether a request of consolidation can be granted or not are "whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would

be fair and equitable to all parties” (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), at section 4.11.2).

In the present case, the Complainant notably requests the consolidation of the Respondents on the basis of the following arguments:

- all the disputed domain names were created around the same time;
- the disputed domain names are built on the same pattern, namely: reproduction of the BELFIUS trademark followed by one or more “s”, whether or not hyphenated, and then by the same gTLD;
- the disputed domain names have all been registered through the same privacy protection service and the same Registrar;
- the name and contact details for the registrant of the disputed domain names <belfius-s.xyz> and <belfius-ss.xyz> are the same; and
- regarding the disputed domain name <belfiussss.xyz>, the identity and contact details of the registrant appear extremely close from those of the two others disputed domain names.

In view of all the above, the Panel finds that the request of consolidation of all the disputed domain names in the present procedure is well grounded.

Indeed, the disputed domain names <belfius-s.xyz> and <belfius-ss.xyz> are obviously registered by the same person as the identity and contact detail of their registrant is exactly the same.

As far as the disputed domain name <belfiussss.xyz> is concerned, it is more than likely that it is registered by the same person than the two others and, if not, by someone having control over all three disputed domain names, as:

- the name of the registrant of the disputed domain name <belfiussss.xyz> is extremely close of the name of the registrant of the two others disputed domain names;
- the address of all the Respondents is almost identical (same street, same post code, and same country);
- above all, the phone number communicated by the Respondent for the three disputed domain names is the same; and
- the Respondent, who has been given the opportunity to contest the consolidation of the disputed domain names in the same procedure, did not object this.

As a consequence, the Panel is satisfied that all the disputed domain names are subject to common control and considers that consolidation is fair and equitable to all parties, and also procedurally efficient.

6.2 Substantive Issues

Pursuant to paragraph 4(a) of the Policy, for obtaining the transfer of the disputed domain names, the Complainant must establish each of the following three elements:

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

Besides, paragraph 15(a) of the Rules provides that “[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.”

Paragraphs 10(b) and 10(d) of the Rules also provide that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case” and that “[t]he Panel shall determine the admissibility, relevance, materiality, and weight of the evidence”.

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see section 4.3 of the [WIPO Overview 3.0](#)).

Taking the foregoing provisions into consideration the Panel finds as follows.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first establish rights in a trademark or service mark and secondly establish that the disputed domain names are identical or confusingly similar to its trademark.

It results from the documents supporting the Complaint, and in particular from Annexes 5 to 7, that the Complainant is the owner of trademark registrations for BELFIUS, notably that detailed in section 4 above.

Turning to whether the disputed domain names are identical or confusingly similar to the Complainant's trademark, as indicated in [WIPO Overview 3.0](#), section 1.7, "[w]hile each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark [...], the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

This test is satisfied here, as all the disputed domain names, <belfiussss.xyz>, <belfius-ss.xyz>, and <belfius-s.xyz>, identically reproduces the BELFIUS trademark in its entirety, and because the added elements, namely one or several letter "s", hyphenated or not, do not prevent a finding of confusing similarity. Indeed, there is a consensus view among UDRP panels that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element of the Policy (see [WIPO Overview 3.0](#), section 1.8; and *Kabbage, Inc. v. Name Redacted*, WIPO Case No. [D2020-0140](#)). Besides, the gTLD ".xyz" may be ignored for the purpose of assessing the confusing similarity, because it only plays a technical function.

Consequently, the first element under the Policy set for by paragraph 4(a)(i) is fulfilled.

B. Rights or Legitimate Interests

Under 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 a *prima facie* case is made out, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant contends that it has not given its consent for the Respondent to use its BELFIUS trademark in domain name registrations or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain names.

Furthermore, the disputed domain names are currently no longer used, and they previously resolved to a warning page displayed by the Web browser in order to alert the Internet users on the fact that the corresponding website is dangerous.

Obviously these circumstances do not characterize at all a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain names made without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue, well on the contrary.

In view of all the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

The burden of production now shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain names.

The Respondent, which has not replied to the Complainant's contentions, has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain names.

Taking all the above into consideration, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names, and therefore that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain names in bad faith.

The circumstances listed in paragraph 4(b) of the Policy are only examples and therefore are not exhaustive of the situation of bad faith.

Registration in Bad Faith

The Panel notes that:

- the disputed domain names reproduce the Complainant's BELFIUS trademark in its entirety;
- this trademark predates the registration of the disputed domain names by 10 years;
- the Complainant contends that its BELFIUS trademark is renown in Belgium and beyond. This has not been challenged by the Respondent and UDRP panels have already recognized the reputation of the Complainant's trademark in the field of banking and financial services (e.g., *Belfius Bank S.A. / Belfius Bank N.V. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Bieren Lul*, WIPO Case No. [D2021-2906](#); and *Belfius Bank S.A. / Belfius Bank N.V v. Privacy service provided by Withheld for Privacy ehf / Raymond Stephen*, WIPO Case No. [D2021-2271](#));
- the Complainant's trademark is a coined term; and
- the Respondent has proceeded with the registration of several disputed domain names, all containing the BELFIUS trademark and built on the same pattern (the Complainant's trademark followed by one or several "s").

In light of the above, the Panel finds that the Respondent registered the disputed domain names with the Complainant's trademark in mind, that is to say in bad faith.

Use in Bad Faith

Before being deactivated, the disputed domain names triggered a warning message from the web browser alerting the Internet users that the corresponding website was "deceptive" because "attackers [...] may trick [the latter] into doing something dangerous like installing software or revealing [their] personal information".

Such deceptive use of the disputed domain names patently supports a finding of bad faith use (see for instance [WIPO Overview 3.0](#), section 3.4).

At last, the fact that the disputed domain names are currently inactive does not change the above finding, not only because this deactivation is very likely purely opportunistic, but also because the present situation clearly falls within the doctrine of passive holding.

Indeed, (i) the Complainant's trademark is intrinsically distinctive and enjoys a reputation, (ii) the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent has concealed its identity through a privacy protection service, and (iv) any use in good faith of the disputed domain names by a third party appears extremely likely not possible, not to say unconceivable given their closeness with the Complainant's trademark and the fact that the risk of fraud in the banking sector is important (See [WIPO Overview 3.0](#), section 3.3).

In conclusion, for all the reasons set out above, the Panel is of the opinion that the disputed domain names were registered and are 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 that the disputed domain names, <belfiussss.xyz>, <belfius-ss.xyz>, and <belfius-s.xyz>, be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: June 13, 2022