

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Maxiime Dudur
Case No. D2023-1843

1. The Parties

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

The Respondent is Maxiime Dudur, France.

2. The Domain Name and Registrar

The disputed domain name <id-belfius.com> is registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English 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 disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and its contact details.

The Registrar also indicated that the language of the registration agreement is French. On May 1, 2023, the Center sent an email communication to the Parties in both French and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into French; or submit a request for English to be the language of the administrative proceedings.

On May 2, 2023, the Complainant filed a request for English to be the language of the proceedings. The Respondent did not comment on the language of the proceedings.

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 in both French and English, and the proceedings commenced on May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 12, 2023.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on June 28, 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 more than 5,000 employees and over 650 agencies in Belgium.

The Complainant owns several trademarks, in particular the Benelux trademark No. 0914650 BELFIUS and the European Union trademark No. 010581205 BELFIUS, both registered in 2012, as well as, according to the Complainant, several domain names, such as <belfius.be> and <belfius.com>, which all resolve to the Complainant's official website.

The disputed domain name was registered on October 15, 2022, and is thus clearly posterior to the Complainant's trademarks. It does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name, <id-belfius.com> is confusingly similar to its BELFIUS trademarks.

Furthermore, the Complainant states that the Respondent is not affiliated with its group and that no license has been granted to the Respondent to use the Complainant's trademarks. Also, the Respondent does not use the disputed domain name at all which could possibly allow him to allege a legitimate noncommercial or fair use of it.

Lastly, the Complainant contends that the Respondent registered and "uses" the disputed domain name in bad faith, even though it does not resolve to any website, in particular because the Respondent knew or should have known of the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the proceedings

Pursuant to paragraph 11 of the Rules, the language of the administrative proceeding is the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In the case at hand, the Complainant filed its Complaint in English even though the registration agreement appears to be in French. The Complainant has therefore requested that English be determined to be the language of the proceedings instead of French.

It argues, in particular, that French people are very likely to speak English and that translating the Complaint into French would cause undue delay in the current proceedings.

Several scenarios may warrant proceeding in another language than that of the registration agreement, e.g. if it is proven or highly probable that the Respondent can understand the language of the complaint and/or if it would appear unfair to cause any delays in the proceedings by ordering the Complainant to translate the Complaint.

On the one hand, the panel notes that English is indeed the *lingua franca* in international business and that in Europe (including in France) every schoolchild learns English. Additionally, the Respondent has not filed any response and therefore has not expressed any views on the language of the proceedings, which indicates that this issue is indifferent to him. In light of these circumstances, it seems fair and appropriate to accept the complaint in English and to conduct this proceeding in English.

6.2 Substantive Issues

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name registered by the Respondent 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 in bad faith.

A. Identical or Confusingly Similar

The trademarks put forward by the Complainant demonstrate that it has rights in BELFIUS. Under the UDRP, the requirement under paragraph 4(a) of the Policy requires the disputed domain name to be identical or confusingly similar to the Complainant's trademarks. There is no requirement of similarity of goods and/or services.

The existence of confusing similarity within the meaning of paragraph 4(a) of the Policy is not in doubt in the present case, given that the disputed domain name incorporates the Complainant's trademarks BELFIUS in its entirety. The incorporation of a trademark in its entirety is typically sufficient to establish that a disputed domain name is identical or confusingly similar to a trademark. The other element of the disputed domain name, *i.e.* the element "id", is not sufficient to prevent a finding of confusing similarity.

As far as the generic Top-Level Domain ("gTLD") ".com" is concerned, this element has a technical function and therefore is typically not taken into account when assessing the issue of identity or confusing similarity.

The Panel thus finds that the disputed domain name is confusingly similar with the Complainant's trademarks BELFIUS.

B. Rights or Legitimate Interests

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name, in particular that the Respondent has not at any time been commonly known by the disputed domain name and the Respondent is not making legitimate use of said disputed domain name.

The Complainant clearly states that it has not granted the Respondent any rights to use its trademarks.

UDRP panels found in previous decisions that in the absence of any license or permission from the Complainant to use widely known trademarks, no *bona fide* or legitimate use of a disputed domain name may reasonably be claimed (*LEGO Juris NS v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WPO Case No. [D2010-0138](#)).

Furthermore, by not submitting any response to the Complaint, the Respondent failed to invoke any

circumstance that might demonstrate, pursuant to paragraph 4(c) of the Policy, that it holds any rights or legitimate interests in the disputed domain name (*Ahead Software AG v. Leduc Jean*, WPO Case No. [D2004-0323](#); see also, *Nintendo of America, Inc., v. Tasc, Inc. and Ken Lewis*, WIPO Case No. [D2000-1563](#) (finding that respondent's default was sufficient to conclude that it had no rights or legitimate interests in the disputed domain names). The Panel also notes that the composition of the disputed domain name incorporating the Complainant's trademarks and the element "id-", relevant to the Complainant, which refers to identity or identification, carries a risk of implied affiliation.

Accordingly, the Panel finds that the Complainant has shown that the Respondent does not have any rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must, in addition to the matters set out above, demonstrate that the disputed domain name has been registered and is being used in bad faith. The undisputed *prima facie* evidence establishes that the Respondent is not affiliated with the Complainant and has no license or other authorisation to use the Complainant's trademarks.

The Respondent registered the disputed domain name well after the Complainant's trademarks was in use. The Panel finds that the Respondent should have known about the Complainant's trademarks and business when registering the disputed domain name, not least because of the geographical proximity of his residence to the Belgian border.

Furthermore, this Panel considers that the disputed domain name for itself is a strong indication that the Respondent was aware of the Complainant's trademarks BELFIUS, as it seems more than unlikely that the Respondent would have created – randomly – the disputed domain name that is almost identical with the Complainant's distinctive trademarks (cf. *Motul v. Contact Privacy Inc. Customer 0138693539 / Konstantin Speranskii*, WPO Case No. [D2016-2632](#)).

Regardless of whether the disputed domain name is used in connection with a website, it is consistent practice to consider that even the merely passive holding of a domain name does not prevent a finding of bad faith if the Complainant's trademark is well known and has a solid reputation. This conclusion is also reinforced, for the present case, by the fact that the Respondent has not replied to the Complainant's allegations and the Respondent has not provided any evidence of any use of the disputed domain name or at least of any intention to use the disputed domain name in good faith.

This Panel therefore holds the view that the disputed domain name was registered and used in bad faith.

The Complainant therefore has established registration and use of the disputed domain name in bad faith.

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, <id-belfius.com>, be transferred to the Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: July 12, 2023