

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Napa Viano
Case No. D2023-1906

1. The Parties

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

The Respondent is Napa Viano, Russian Federation.

2. The Domain Name and Registrar

The Disputed Domain Name <belfius-app.com> is registered with Registrar of Domain Names REG.RU LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 27, 2023. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 2, 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").

On May 2, 2023, the Center send an email in English and Russian to the Parties regarding the language of proceeding. The Complaint confirmed its request that English be the language of the proceeding on the same day. The Respondent did not comment on the language of proceeding.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified in English and in Russian the Respondent of the Complaint, and the proceedings commenced on May 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 6, 2023.

The Center appointed Clark W. Lackert as the sole panelist in this matter on June 16, 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 major and well-known Belgian bank and financial services provider. It has over 5,000 employees, over 3 million customers, and 650 agencies. Its trademark BELFIUS is an invented word coming from the words “Belgium” (BE), “Financial” (FI), and the English word “us” (US). Its principal websites are found at “www.belfius.com” and “www.belfius.be”.

The Complainant owns the trademark BELFIUS and has registered it in various countries including in the European Union and Benelux trademark offices as follows:

Jurisdiction	Registration Number	Registration Date
European Union	EUIPO - 010581205	May 24, 2012
Benelux	BX – 915962 & 915963 (& others)	June 11, 2012 (& others)

The Disputed Domain Name was registered on February 17, 2023, long after the claimed rights of the Complainant. The Disputed Domain Name resolves to a webpage initially blocked by browsers marking it as “dangerous” and “deceptive”.

5. Parties’ Contentions

A. Complainant

The Disputed Domain Name is made of the complete incorporation of the Complainant’s BELFIUS trademark with the addition of the descriptive and non-distinctive term “app”. With more than 5,000 employees and over 650 agencies as well as 100% government ownership, the Complainant is a renowned Belgian bank and financial services provider with a solid reputation in Belgium and beyond. The activities of the Complainant are focused on the Belgian territory, but the trademark is also shown outside Belgium as the Complainant sponsors several national sports teams and sports events. The Complainant’s group is the owner of numerous trademarks incorporating iterations of BELFIUS which is an invented word composed of “Bel” as in Belgium, “fi” as in finance and the English word “us”. The Complainant is the registrant to the domain name “belfius.be” that resolves to its official website where it offers banking and insurance services.

The Complainant is also the registrant to “belfius.com”, which redirects to a website intended for institutional partners and journalists, as well as many other domain names that include the mark BELFIUS and redirect to its official website. As part of its domain name watch the Complainant discovered that the Respondent has registered the Disputed Domain Name <belfius-app.com> without any legitimate interest. The Disputed Domain Name was registered by the Respondent on February 17, 2023 and at the time of filing, it did not resolve to an active webpage. The Disputed Domain Name is made of the complete incorporation of the Complainant’s BELFIUS trademark with the addition of the descriptive and non-distinctive term “app”. The Registrant was contacted in order to obtain the transfer of the domain name but no answer was received. As such, the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, the Respondent has no legitimate interests or rights in the Disputed Domain Name, and the Disputed Domain Name was registered in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue – Language of the Proceeding

According to the information provided by the Registrar, the language of the Registration Agreement for the Disputed Domain Name is Russian. Under paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the administrative proceeding shall be 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.

The Complainant submitted its Complaint in English, and requests the proceeding to be held in English. The Center has sent all its relevant email communications to the Respondent in both English and Russian, and has invited the Respondent to express his views on the language of the proceeding. The Respondent has not responded to this invitation and has thus not objected to the Complainant's request that the proceeding be held in English. The Disputed Domain Name incorporates the Complainant's trademark plus the English term "app".

The Panel therefore accepts the Complainant's language request based upon the reasons set forth above. The Panel also finds that it is fair and procedurally efficient for English to be the language of the proceeding under the circumstances of this case.

6.2. Substantive Issues

The Panel has reviewed the Complaint, all supporting evidence, and the proceeding history as set forth in the record. The Panel notes that no response has been filed in this proceeding, and that the record supports a decision in the Complainant's favor.

A. Identical or Confusingly Similar

The Disputed Domain Name is essentially the Complainant's trademark and the descriptive word "app". Panels have found that the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. (See, e.g., *Britannia Building Society v. Britannia Fraud Prevention*, WIPO Case No. [D2001-0505](#)). In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. The addition of the term "app" does not prevent a finding of confusing similarity of the Disputed Domain Name with the Complainant's BELFIUS trademark.

As the Panel stated in *Easy Online Solutions, Ltd. d/b/a MojoHost v. Maxx*, WIPO Case No. [D2021-0303](#): "Previous panels have found confusing similarity when a respondent merely adds a dictionary word and a gTLD to a complainant's mark." In WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, the issue is described as: "Where the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements." Here, the Complainant's trademark is clearly recognizable within the Disputed Domain Name and the added term does not prevent a finding of confusing similarity.

The Panel finds that the requirements of paragraph 4(a)(i) of the Policy have been satisfied.

B. Rights or Legitimate Interests

The record indicates that the Complainant has made an un rebutted *prima facie* case, and does not contain any evidence to indicate that the Respondent has any rights or legitimate interests in using the Complainant's trademark in the Disputed Domain Name.

The Panel finds that the requirements of paragraph 4(a)(ii) of the Policy have been satisfied.

C. Registered and Used in Bad Faith

The trademark of the Complainant has been registered since 2012, whereas the Disputed Domain Name was registered on February 17, 2023. The Respondent thus either knows or should have known of the Complainant's trademark or else possessed the kind of willful blindness that numerous panels have held supports a finding of bad faith (see *LEGO Juris A/S v. Domains by Proxy, Inc., DomainsByProxy.com / DBA David Inc.*, WIPO Case No. [D2011-1839](#); *Georgia-Pacific Consumer Products LP v. Whois Privacy Services Pty Ltd. / Conquistador Sat*, WIPO Case No. [D2013-1458](#)), and others. Here, the trademark is an invented word ("Bel-fi-us") which makes it even more unlikely that the Respondent just happened to use it without prior knowledge.

In the case *Intesa Sanpaolo S.p.A. v. Domains Admin, New Media Nexus*, WIPO Case No. [D2015-1606](#), the Panel accepted that: "In this day and age, where the Internet is widely used, the well-known status of a trade mark is not necessarily restricted to the physical geographic boundaries determined by where the trade mark holder is based." If the Respondent had conducted some good faith searches 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. See *Grundfos A/S v. Texas International Property Associates*, WIPO Case No. [D2007-1448](#); *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#). In this case, the Complainant has established a substantial presence on the Internet. The Complainant has registered more than 200 gTLDs and country code Top-Level Domains worldwide which incorporate the trademark BELFIUS as a domain name, amongst them is <belfius.com> and <belfius.be>.

The Disputed Domain Name is passively held. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put." The Panel finds that passive holding of the Disputed Domain Name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the Disputed Domain Name. The Complainant's trademark is well known and widely used in commerce.

Moreover, the Respondent did not reply to the cease and desist notice sent by the Complainant. Previous Panels have found that failure of the Respondent to reply to the Complainant's cease and desist notice supports an inference of bad faith (e.g., *Bayerische Motoren Werke AG v. (See This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#)).

Additionally, the Panel finds that the addition of the term "app" to the Complainant's trademark BELFIUS, certainly strengthens the association with Complainant and its BELFIUS trademark. UDRP panels have consistently found that the registration of a domain name that incorporates a widely known mark by an unaffiliated entity can by itself create a presumption of bad faith. See, e.g., *The Dow Chemical Company v. dowchemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. [D2008-1078](#) (finding <dowaychemical.com> registered in bad faith in view of the "widely known trademarks" of the complainant); see also *IDR Solutions Ltd. v. Whois Privacy Corp.*, WIPO Case No. [D2016-2156](#) (evidence of third party recognition of complainant's JPEDAL mark supported conclusion that <jpedal.org> was registered in bad faith). As [WIPO Overview 3.0](#), section 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

The Panel finds that, in the circumstances of the cases, the Respondent registered and used the Disputed Domain Name in bad faith and therefore, the requirements of paragraph 4(a)(iii) of the Policy have been satisfied.

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-app.com> be transferred to the Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: June 30, 2023