

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Web Master, Expired domain caught by auction winner.*Maybe for sale on Dynadot Marketplace*****

Case No. D2023-4044

1. The Parties

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

The Respondent is Web Master, Expired domain caught by auction winner.***Maybe for sale on Dynadot Marketplace***, Hong Kong, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (web master, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 the same day.

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 Respondent of the Complaint, and the proceedings commenced on October 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2023.

The Center appointed Christian Pirker as the sole panelist in this matter on November 17, 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 large Belgian bank and financial services provider, fully owned by the Belgian state. Belfius is an invented word composed of “bel” as in Belgium, “fi” as in finance and the English word “us”. The Complainant has provided evidence of trademark registration for BELFIUS such as the Swiss trademark registration for BELFIUS, No. 786943 registered on September 22, 2022, and the European Union trademark registration for BELFIUS, No. 010581205 registered on May 24, 2012.

The Complainant also owns Benelux trademark registrations for AIBEL and AIBEL BY BELFIUS, No. 1483032 and No. 1483033, both registered on July 11, 2023.

The Complainant has also registered a domain name in 2012 containing its BELFIUS trademark for its official website at “www.belfius.be” to represent the company on the Internet and registered numerous domain names including the BELFIUS trademark.

The Respondent is reportedly located in Hong-Kong, China.

The disputed domain name <aibelbybelfius.com> was registered on September 1, 2023, does not resolve to an active webpage at the time of filing and currently resolves to a page offering the disputed domain name for sale.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is composed of the complete incorporation of the Complainant's trademarks BELFIUS, AIBEL and AIBEL BY BELFIUS. The Complainant further alleges that the Respondent is in no way associated with the Complainant, the latter has not licensed, approved or in any way consented to the Respondent's registration and use of the trademark in the disputed domain name. The Complainant concludes that there is no evidence available to demonstrate any rights or legitimate interests in respect of the disputed domain name.

The Complainant further alleges that it has established a substantial presence on the Internet and registered more than 200 generic Top Level Domains (“TLD”) and country code TLDs worldwide which incorporate the trademark BELFIUS as a domain name, amongst them is <belfius.com>, and <belfius.be>. Moreover, it is evident for the Complainant that the Respondent had or should have had knowledge of the Complainant's trademark and business at the time when it registered the disputed domain name, as it incorporates the trademark AIBEL BY BELFIUS” in its entirety. Mere coincidence of an identical name cannot be accepted and further indicates that the Respondent was aware of the Complainant. Accordingly, the Complainant considers that the Respondent had or should have had knowledge of the Complainant's trademark when it registered the disputed domain name, which suggests bad faith. Finally, the Complainant alleges that the passive holding of a domain name may amount to bad faith when it is difficult to imagine any plausible future active use of the disputed domain names by the Respondent that would be legitimate and not infringing the Complainant's well-known mark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) 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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel notes in particular that the Respondent registered the disputed domain name years after the BELFIUS trademark and several months after the Complainant registered the three words trademark AIBEL BY BELFIUS in Benelux, which includes the Complainant’s bank’s name and trademark. It seems clear to the Panel that the Respondent was fully aware of the Complainant’s rights and was targeting the Complainant at the time of its registration of the disputed domain name, particularly as the bank’s name is an invented name.

Furthermore, the Respondent has not replied to the proceedings, hides behind a privacy service, and does not appear to have given accurate information about itself (the Written Notice was not able to be delivered to the Respondent). Further, the Panel accepts the Complainant’s assertion on the implausibility of any good faith use to which the disputed domain name may be put. The fact that the disputed domain name is currently being offered for sale at a price well in excess of the acquisition price and that it may be acquired by third parties, further demonstrates the Respondent’s bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <aibelbybelfius.com> be transferred to the Complainant.

/Christian Pirker/

Christian Pirker

Sole Panelist

Date: December 7, 2023