

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Jan Balhaar
Case No. D2024-1388

1. The Parties

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

The Respondent is Jan Balhaar, Belgium.

2. The Domain Name and Registrar

The disputed domain name <www-belfiu-business-be.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 2, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 2, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 2024, 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 April 5, 2024.

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 April 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 7, 2024.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on May 16, 2024. 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. The Complainant owns the following trademarks:

Benelux Trademark No. 914650 for BELFIUS, registered on May 10, 2012 in International Classes 9, 16, 35, 36, 41, and 45;

Benelux Trademark No. 915963 for  Belfius registered on June 11, 2012 in International Classes 9, 16, 35, 36, 41, and 45; and

European Union Trademark No. 010581205 for BELFIUS, registered on May 24, 2012 in International Classes 9, 16, 35, 36, 41, and 45.

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 other domain names incorporating the BELFIUS mark.

The Respondent is a private individual located in Belgium. The disputed domain name was registered on December 18, 2023, well after the Complainant secured rights in the mark BELFIUS. The disputed domain name does not currently resolve to an active website.

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.

With respect to the first element, the Complainant contends that it has rights in the mark BELFIUS. Furthermore, it argues that the disputed domain name is confusingly similar to this mark since the disputed domain name is virtually identical to the BELFIUS mark, differing only by the deletion of the "s" and the introduction of "www-" before and "-business-be" after "belfiu". The introduction of the "be" is all the more confusing as it refers to the country in which the Complainant is active, i.e., Belgium, and to the country-code Top-Level-Domain ("ccTLD") associated with it, i.e., ".be". The Complainant adds that the present case is therefore clearly one of "typosquatting" since the disputed domain name is a slight misspelling of the Complainant's registered trademark. Finally, the Complainant argues that the applicable generic Top-Level-Domain ("gTLD") in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Regarding the second element, the Complainant claims that the Respondent lacks a rights or legitimate interests in the disputed domain name. The Complainant contends that the Respondent does not have any trademark rights to BELFIUS and does not make any use, let alone legitimate non-commercial or fair use, of the disputed domain name. Moreover, the Complainant points out that their trademark registrations for BELFIUS predate the Respondent's registration of the disputed domain name. In addition, it contends that

the Respondent is in no way associated with the Complainant, the Complainant has not licensed, approved or in any way consented to the Respondent's registration and use of the trademark in the disputed domain name.

With respect to the third element of the Policy, the Complainant contends that the Respondent has registered and used the disputed domain name in bad faith for the following reasons. According to the Complainant, the Respondent knew or should have known about the existence of the Complainant's trademarks since these trademarks predated registration of the disputed domain name and were in wide use at the time of such registration. Moreover, the Complainant argues, by registering a similar domain name to the Complainant's trademark, the Respondent is attempting to take advantage of the Complainant's reputation by capturing traffic from Internet users looking for the Complainant, but misspelling its name. This form of "typosquatting" is considered bad faith within the meaning of the Policy.

As to the use of the disputed domain name, the Complainant notes that the disputed domain name is not currently being used. Such use can neither be considered a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy, the Complainant adds. Finally, the Complainant points to the passive holding doctrine which provides that 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 name by the Respondent that would be legitimate and not infringing the Complainant's well-known mark or unfair competition and consumer protection legislation.

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds that the Complainant has clearly evidenced that it owns registered trademark rights to BELFIUS. It should be noted that paragraph 4(a)(i) of the Policy does not set minimum requirements as to the jurisdictions of the trademarks a complainant relies on, nor as to the number, nature, or scope of protection of such trademarks. Furthermore, one of the trademarks listed above is figurative, however this can also be taken into account to show "rights in a mark" since the dominant portion of this trademark is the word "Belfius". It is a consensus view of UDRP panels, with which the Panel agrees, that trademark registrations with design elements can prima facie satisfy the requirement that a complainant shows "rights in a mark" so long as the textual elements are not overtaken. [WIPO Overview 3.0](#), section 1.10.

The Panel finds the mark is recognizable within the disputed domain name. It is clear that "Belfiu" is an intentional misspelling of the BELFIUS" trademark, and the disputed domain name still contains sufficiently recognizable aspect of the relevant mark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “www”, “business” and “be”, separated by hyphens “-“, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. . [WIPO Overview 3.0](#), section 1.8.

Finally, as for the applicable gTLD “.com”, the Panel holds that this can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel finds that the Respondent does not use the disputed domain name in connection with a bona fide offering of services and has neither made a legitimate non-commercial or fair use of the disputed domain name. As shown by the Complainant, the disputed domain name does not currently resolve to an active website.

In addition, the Panel notes that the Respondent failed to respond to the Complaint and the evidence on record therefore does not contain any evidence of the Respondent being commonly known as “belfiu” prior to or after the registration of the disputed domain name. Furthermore, the Panel has taken note of the Complainant’s confirmation that they have not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant’s trademarks and has not seen any evidence that would suggest the contrary. In the absence of any license or permission from the Complainant to use its trademarks and the composition of the disputed domain name, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); and *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

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.

As the Panel found above under the first element, the disputed domain name is confusingly similar to the Complainant's trademarks. The disputed domain name is a clear case of typosquatting. As mentioned under the first element, the name "belfiu" used in the disputed domain name only differs one letter from the Complainant's mark BELFIUS, meaning registration of the disputed domain name has clearly been done to attract Internet users by creating a likelihood of confusion with the Complainant's trademarks. All the more, the Panel believes the addition of the terms "business" and "be" only increases the confusing similarity since "business" will likely be understood as a reference to the Complainant's customers and "be" as a reference to the market in which the Complainant operates, Belgium. Moreover, the Respondent's knowledge of the Complainant's trademarks can also be inferred from the fact that the Complainant's BELFIUS trademarks predated registration of the disputed domain name and were in wide use at the time of such registration. These circumstances, in combination with the Respondent's clear absence of rights or legitimate interests in the disputed domain name, are strong indicators of bad faith. [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.2.

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 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 and reputation of the Complainant's BELFIUS trademark, in particular in the country where the Respondent is located, as well as the composition of the disputed domain name. In addition, the Panel notes the failure of the Respondent to submit a response. In light of these circumstances, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <www-belfiu-business-be.com> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: May 30, 2024