

## **ADMINISTRATIVE PANEL DECISION**

**Belfius Bank S.A. / Belfius Bank N.V. v. Privacy Service Provided by Withheld for Privacy ehf / Sophie Casey**  
Case No. D2022-1747

### **1. The Parties**

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Sophie Casey, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <belfiusclient.live> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 13, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 26, 2022, 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 May 31, 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 Respondent of the Complaint, and the proceedings commenced on June 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2022.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on July 7, 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 renowned Belgian bank and financial services provider wholly owned by the Belgium government and with over 5,000 employees and 650 branches in Belgium. The Complainant has traded since 2012 under the BELFIUS trademark, which is an invented term composed of “Belgium”, “finance”, and “us”.

The Complainant’s group is the owner of numerous trademarks incorporating BELFIUS:

- European Union trademark registration for BELFIUS, 010581205, registered on May 24, 2012;
- Benelux trademark registration for BELFIUS, 0914650, registered on May 10, 2012; and
- Benelux trademark registration for BELFIUS (figurative), 0915963, registered on June 11, 2012.

The Complainant is the registrant of the domain name <belfius.be> that resolves to its official website where it offers banking and insurance services. The Complainant is also the registrant of the domain name <belfius.com>, which redirects to a website intended for institutional partners and journalists, as well as of many other domain names that include the trademark BELFIUS and redirect to its official website.

The disputed domain name was registered on December 16, 2021, and at the time of the decision it resolves to an inactive website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is made of the complete incorporation of the Complainant’s BELFIUS trademark and is therefore confusingly similar. The addition of the English/French descriptive term “client” and the generic Top-Level-Domain “.live” does not lessen the confusion.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized, licensed, or permitted by the Complainant to use the BELFIUS trademark. The Respondent does have no own trademarks rights and there is no reason why it should adopt the combination ‘BELFIUS’ in a domain name. Moreover, the Respondent is not making any use of the disputed domain name.

Furthermore, the Complainant claims that the disputed domain name was registered and is used in bad faith. If the Respondent had conducted some good faith searches before registering the disputed domain name, it would have found reference to the Complainant and appreciated the likelihood of confusion between the disputed domain name and the Complainant. It is clear that the Respondent had or should have had knowledge of the Complainant’s trademark when it registered the disputed domain name.

The Respondent does not use the disputed domain name and does not seem to have any intention to use it. The passive holding or non-use of the disputed domain name supports the finding of bad faith, because the disputed domain name consists of the Complainant’s trademark, the Respondent’s use of incomplete contact details and the impossibility to conceive any plausible actual or contemplated active use that would be in good faith.

## B. Respondent

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

## 6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed domain name 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 Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant has shown that it holds rights over the BELFIUS trademark with European and Benelux registrations.

The disputed domain name incorporates the BELFIUS trademark entirely with the addition of the suffix "client" and followed by the generic Top-Level Domain ("gTLD") ".live".

[WIPO Overview 3.0](#), section 1.11.1 reads: "The applicable Top Level Domain ('TLD') in a domain name (*e.g.*, '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". The gTLD ".live" will therefore be discounted in the Panel's consideration of confusing similarity.

[WIPO Overview 3.0](#), section 1.8 reads: "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." The disputed domain name is a combination of the Complainant's trademark BELFIUS and the English and French term "client". The added term "client" does not prevent the Complainant's trademark from being recognizable in the disputed domain name.

The Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Complainant, under the second requirement of paragraph 4(a)(ii) of the Policy, needs to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Section 2.1 of the [WIPO Overview 3.0](#) reads: “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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Complainant makes its *prima facie* case by demonstrating without contradiction that it has not authorized or granted a license to the Respondent to use its trademark and that the Respondent has not been commonly known by the disputed domain name and there is no evidence in the case file to the contrary. Furthermore, the Respondent is not making any use of the disputed domain name, which incorporates the entirety of the distinctive BELFIUS trademark and thereby falsely implies an association to the Complainant contrary to the fact.

Accordingly, the Panel finds the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

The Complainant, under the third requirement of paragraph 4(a)(iii) of the Policy, needs to establish that the Respondent has been registered and is being used in bad faith.

[WIPO Overview 3.0](#), section 3.2.2 reads: “Knew or should have known: Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The Complainant’s trademark was registered 2012 and has been used extensively since. The Complainant’s trademark is widely known in the sector of European banking and financial services. A brief Internet research would have been sufficient to find the Complainant’s trademark.

Additionally, the term “belfius” is an invented word composed of “Belgium”, “finance”, and “us” and therefore highly distinctive. It seems not likely that the Respondent would use an invented term by coincidence. Consequently, the Respondent knew or should have known about the Complainants trademarks.

[WIPO Overview 3.0](#), section 3.3 reads: “From the inception of the UDRP, panelists 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.

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 Respondent does not use the disputed domain name. As mentioned before, the Complainant’s

trademark is highly distinctive and the Respondent failed to submit a response. Additionally, the Respondent seems to have provided false contact details in light of the courier's notice to the Center of its inability to deliver the written notice to the disclosed contact details for the Respondent. There is no plausible good faith explanation for the accumulation of these points.

Consequently, the passive holding in this case supports the finding of bad faith.

The Panel therefore finds that the disputed domain name was registered and used in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## **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, <belfiusclient.live>, be transferred to the Complainant.

*/Christian Gassauer-Fleissner/*  
**Christian Gassauer-Fleissner**  
Sole Panelist  
Date: July 21, 2022