

ADMINISTRATIVE PANEL DECISION

Belfius Bank S.A. / Belfius Bank N.V v. Piska
Case No. D2022-2175

1. The Parties

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

The Respondent is Piska, Russian Federation.

2. The Domain Names and Registrars

The disputed domain names <belfius-be-connect.xyz> and <belfius-connect.xyz> are registered with Todaynic.com, Inc.

The disputed domain name <belfius-home.xyz> is registered with Eranet International Limited.

Todaynic.com, Inc. and Eranet International Limited are hereinafter collectively referred as the “Registrars”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 15, 2022. On June 15, 2022, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On June 20, 2022, the Registrars transmitted by email to the Center their verification responses confirming that the Respondent is listed as the registrant and providing the contact details.

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 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 20, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on August 1, 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.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is a company based in Belgium which provides banking and financial services, primarily in Belgium. It has more than 5,000 employees and over 650 agencies and is 100 percent state-owned.

The Complainant has registered several trademarks consisting of BELFIUS, including the European Union Trade Mark No. 010581205 registered on May 24, 2012 for goods and services in International Classes 9, 16, 35, 36, 41, and 45. The Complainant is the registrant of the domain name <belfius.be>, reflecting its trademark, that resolves to its official website where it offers banking and insurance services, as well as the registrant of other domain names that include the trademark BELFIUS, that redirect to its official website.

The disputed domain names <belfius-be-connect.xyz> and <belfius-connect.xyz> were registered on March 31, 2022, and the disputed domain name <belfius-home.xyz> was registered on March 30, 2022. The disputed domain names do not resolve to active websites.

5. Parties' Contentions

A. Complainant

The Complainant submits that its trademark BELFIUS is an invented word composed of "bel" for "Belgium", "fi" for "finance", and the English word "us". The Complainant argues that the disputed domain names are composed of the complete incorporation of the Complainant's trademark BELFIUS combined with non-distinctive generic terms, respectively "home", "be", and "connect". Such addition does not lessen the confusion of the disputed domain names with the Complainant's BELFIUS trademark. On the contrary, the addition of these terms strengthens the association with the Complainant's and its BELFIUS trademark ("be" for Belgium, "connect" and "home" being generic terms referring to "home pages" of websites).

As regards the second element, the Complainant argues that it has not licensed, approved, or in any way consented to the Respondent's registration and use of the trademark BELFIUS in the disputed domain names. Moreover, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names as it is not making any use of the disputed domain names in connection with an active website.

With respect to the third element, the Complainant argues that its trademark was registered well before the disputed domain names were registered in 2022, and that it had established a substantial presence on the Internet. Therefore, the Respondent had or should have had knowledge of the Complainant's trademark when it registered the disputed domain names. As regards the use, the Complainant contends that the passive holding of the disputed domain names amounts to bad faith in the circumstances of the case, as the disputed domain names mainly consist of the Complainant's trademark, also given the provision of incomplete contact details and the impossibility to conceive any plausible actual or contemplated active use of the disputed domain names by the Respondent that would be in good faith. Moreover, the Respondent did not reply to the cease-and-desist notice sent by the Complainant, which supports an inference of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Matters

No communication has been received from the Respondent in this case. However, given that notice of the Complaint was sent to the relevant addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

6.2 Substantive Matters

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence of its rights in the BELFIUS trademarks. The trademark BELFIUS is reproduced in its entirety in each of the disputed domain names. The addition of "-be-connect", "-connect", and "-home", does not prevent a finding of confusing similarity with the Complainant's trademark BELFIUS, which is recognizable in each of the disputed domain names. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other terms to such trademarks. The addition of an additional term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".xyz", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain names in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark BELFIUS and claims that the Respondent has no legitimate reason to acquire and use the disputed domain names.

There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain names. Also, there is no evidence that the Respondent is commonly known by the disputed domain names. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain names.

Furthermore, the characteristics of the disputed domain names are apt to suggest an affiliation or connection with the Complainant, which prevents any use of them by the Respondent from being considered fair. In this respect, section 2.5.1 of the [WIPO Overview 3.0](#) provides that "[...] where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain names were registered and are being used in bad faith.

According to the unrebutted assertions of the Complainant, its BELFIUS trademark had established a substantial presence on the Internet well before the registration of the disputed domain names in March 2022. The disputed domain names are confusingly similar to the Complainant's trademarks that had been registered for approximately 10 years before the registration of the dispute domain names. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain names. The Respondent provided no explanations for why it registered the disputed domain name.

As regards to the use, the disputed domain names are 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 a bad faith registration: "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 names 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 names. The trademark of the Complainant is long-established and highly distinctive for the services for which it is used, being an invented term. It seems unlikely that the Respondent would use an invented term by coincidence. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. Further, the Respondent has provided what seems to be an incomplete physical contact address to the Registrar.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain names are registered and used 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 names, <belfius-be-connect.xyz>, <belfius-connect.xyz> and <belfius-home.xyz>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: August 15, 2022