

ADMINISTRATIVE PANEL DECISION

**B&B Hotels v. Privacy Protect, LLC (PrivacyProtect.org) /
Babich Aleksandra Olegovna
Case No. D2022-2297**

1. The Parties

The Complainant is B&B Hotels, France, represented by Fiducial Legal By Lamy, France.

The Respondent is Privacy Protect, LLC (PrivacyProtect.org), United States of America / Babich Aleksandra Olegovna, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <bb-hostels.store> (the “Domain Name”) is registered with Beget LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 July 15, 2022.

The Registrar confirmed that the language of the Registration Agreement for the Domain Name is Russian. On July 12, 2022, the Center sent an email communication to the Parties in both English and Russian regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on July 15, 2022. The Respondent did not comment on the language of the proceeding.

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 in both English and Russian, and the proceedings commenced on July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on August 18, 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 company operating a budget hotel chain under the B&B Hotels brand. It was established in 1990. Currently, the Complainant operates over 500 hotels worldwide.

The Complainant is the owner of several trademark registrations (the "Trademarks"), including:

- the European Union Trademark Registration for B & B HOTELS No. 004767323 registered on December 12, 2006;
- the French Trademark Registration for BB-HOTEL No. 3182313 registered on August 29, 2002;
- the French Trademark Registration for BBHOTEL No. 3182311 registered on August 29, 2002;
- the French Trademark Registration for HOTELBB No. 3182312 registered on August 29, 2002.

The Complainant is also the owner of numerous domain names incorporating its trademarks, including <bb-hotel.fr>, <bb-hotels.fr>, <bbhotel.eu>, <bbb-hotel.com> or <bbb-hotels.com>.

The Respondent registered the Domain Name on April 7, 2022.

At the time of submitting the Complaint, the Domain Name resolved to an inactive website. As of the date of this Decision, the Domain Name also resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is confusingly similar to the Complainant's Trademarks.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

(i) the 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 the Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Language of the Proceeding

The language of the Registration Agreement for the Domain Name is Russian. Paragraph 11(a) of the Rules provides that "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 Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. a/k/a Edison Electric Corp. General Energy, Edison GE, Edison-GE and EEEGE.COM*, WIPO Case No. [D2006-0334](#)).

The Complainant has submitted a request that the language of the proceeding be English.

The Complainant suggests, *inter alia*, that it is unable to communicate in Russian. The Complainant submits that in order for both parties to fully understand and handle the present case the English language should be used.

The Panel considers that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment on the language of the proceeding, even though it was notified in English and Russian regarding the language of the proceeding.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

B. Identical or Confusingly Similar

The first element that the Complainant must establish is that the Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Complainant holds valid Trademarks, such as B & B HOTELS, BB-HOTEL, BBHOTEL or HOTELBB, which precede the registration of the Domain Name.

The Domain Name consist of the misspelling of the Complainant's Trademarks. For instance, the Domain Name consist of the misspelling of the Complainant's trademark BB-HOTEL. Two additional letters "s" have been added in the word "hotel" (in the middle and at the end of this word). Moreover, the Domain Name consist of the misspelling of the Complainant's trademark B & B HOTELS. In this case, the additional letter "s" has been added in the middle of the word "hotels". The lack of the ampersand does not prevent the confusing similarity. As numerous UDRP panels have held, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark. See [WIPO Overview 3.0](#), section 1.9.

The generic Top-Level Domain ("gTLD") ".store" in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element. See [WIPO Overview 3.0](#), section 1.11.1.

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant's Trademarks. Thus, the Complainant has proved the requirement under paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant's Trademarks predate the Respondent's registration of the Domain Name. There is no evidence in the case file that the Complainant has licensed or otherwise permitted the Respondent to use any of its Trademarks or to register the Domain Name incorporating the Trademarks. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence in the record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, as well as it does not make a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain. In fact, it does not result from the evidence in the record that Domain Name has been used in any active way to date.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. Moreover, given the typosquatting nature of the Domain Name as compared to the Complainant's marks, it would seem apparent that the Respondent sought to mislead Internet users unaware of the additional "s" in the Domain Name, which cannot constitute fair use. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

The third requirement the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the Trademarks predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's Trademarks at the time of registration of the Domain Name. It has been proven to the Panel's satisfaction that the Complainant's Trademarks are well known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of services under these Trademarks.

Moreover, it does not result from the evidence in the record that Domain Name has been used in any active way to date. As indicated above, at the time of submitting the Complaint, the Domain Name resolved to an inactive website. As of the date of this Decision, the Domain Name still resolves to an inactive website. In the overall circumstances of this case, the Panel finds that the Respondent's passive holding of the Domain Name does not prevent a finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, may not prevent a finding of bad faith under the Policy. Here, given the Respondent's use of a privacy service to mask its details, the Respondent's failure to participate in this proceeding, and the implausible good faith use to which the Domain Name could be put, the Panel agrees with the above.

For the reasons discussed above, the Panel finds that the Complainants have proved the requirements under paragraph 4(a)(iii) 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 Domain Names <bb-hostels.store> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: September 1, 2022