

ADMINISTRATIVE PANEL DECISION

B&B Hotels v. DNS Admin, Buntai LTD

Case No. D2023-0325

1. The Parties

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

The Respondent is DNS Admin, Buntai LTD, United States of America.

2. The Domain Name and Registrar

The disputed domain name <bbhotelromafiumicino.com> is registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2023, 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 January 26, 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 January 30, 2023.

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 February 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 23, 2023.

The Center appointed John Swinson as the sole panelist in this matter on March 1, 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 French company that operates a chain of hotels under the brand B&B HOTELS. The Complainant has used this brand since 1990.

The Complainant has been offering hotels services, restaurants, temporary accommodation services and related booking services, including through the Internet, to a wide range of customers. The Complainant operates more than 500 hotels including in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic and Brazil.

The Complainant is the proprietor of several trademark registrations, including French Trademark No. 3182311 for BBHOTEL (word mark), registered on August 29, 2002, for services in class 43.

The Complainant owns many domain names, including for example <hotel-bb.com>.

The Respondent did not file a Response, so little is known of the Respondent. According to the Registrar's records, the Respondent has an address in the United States of America.

The disputed domain name was registered on July 6, 2022. At the time the complaint was filed the disputed domain name resolved to parking page with PPC links related to hotels and travels.

The disputed domain name at one point in time redirected to a website located at "www.vipestores.com/fr" which is an ecommerce website that has a travel section. The English version of this website states, in the travel section: "Here you can compare all the top travel brands in one place. Compare everything from holidays, flights, car hire and hotels to insurance, tours and short terms rentals. Read about what different travel companies have to offer, compare their pros and cons and find the best travel deal for you online."

At the present time, the disputed domain name does not resolve to an active website.

The Complainant sent a cease and desist letter to the Registrar because the Respondent was using a privacy service, but did not receive a response.

5. Parties' Contentions

A. Complainant

In summary, the Complainant made the following submissions.

The disputed domain name is confusing similar to the Complainant's BBHOTEL trademark, and other registered trademarks.

The disputed domain name consists solely of the Complainant's trademark taken in its entirety, with minor modifications such as a simple addition of "romafiumicino" which is descriptive and only refers to a geographical place, which corresponds to an airport in the city of Roma (Italy).

The Respondent currently not and has never been known under the name BBHOTEL and is not currently and has never been offering any goods or services under that name.

The Complainant has not licensed or authorized the Respondent in any way to use the Complainant's trademarks including B&B HOTELS, BB-HOTEL or BBHOTEL. The Complainant has never allowed the Respondent to register or to use the disputed domain name.

The disputed domain name is only used to benefit from the Complainant's brand reputation and mislead Internet's users into thinking that they have reached the Complainant's website. This is not *bona fide* use of the disputed domain name.

The Respondent's sole intention is an intentional attempt to attract, for commercial gain, or to defraud Internet users to third party's websites or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the websites or locations, which is bad faith under Rule 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint 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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

As set out in Section 4 above, the Complainant has registered trademarks for BBHOTEL.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the Top-Level Domain part of the domain name (*e.g.*, disregarding the ".com" part of the domain name.)

Here, the disputed domain name includes the BBHOTEL registered trademark in its entirety. The addition of the terms "roma" and "fiumicino" (which relate to a location of an airport where the Complainant has a hotel) do not prevent a finding that the disputed domain name is confusingly similar to the Complainant's BBHOTEL registered trademark.

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name. The disputed domain name was registered many years after the Complainant established its trademark rights in BBHOTEL.

Use of the disputed domain name to redirect to a website that competes with the Complainant and that is not branded as "bbhotelromafiumicino" is not *bona fide* use of the disputed domain name.

Use of the disputed domain name to a parking page with PPC links that compete with the Complainant trademark is also not *bona fide* use of the disputed domain name.

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The disputed domain name includes the Complainant's trademark and the location of a place where the Complainant has a hotel, thus suggesting an association with the Complainant. This strongly suggests that the Respondent was aware of the Complainant and registered the disputed domain name because of the Complainant's reputation. The Respondent's decision to register the disputed domain name is most likely motivated by an awareness of the Complainant and the Complainant's trademark.

The disputed domain name redirected to a website that, in part, competes with the Complainant.

The Panel considers, absent any response or reply from the Respondent, that the Respondent's use of the disputed domain name to divert to a website that competes with the Complainant was undertaken for the purpose of disrupting the Complainant's business.

The Panel also consider that the Respondent, in using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to the <vipestores.com/fr> online location, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the "www.vipestores.com/fr" online location. Compare *Inter-Continental Hotels Corporation, Six Continents Hotels, Inc. v. Daniel Kirchof*, WIPO Case No. [D2009-1661](#).

The use of the disputed domain name to a parking page with PPC links is also evidence of bad faith registration and use as per paragraph 4(b)(iv) of the Policy.

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Complainant succeeds on 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 <bbhotelromafiumicino.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: March 15, 2023