

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA and Belfius Bank NV v. Zak; M^Axime Durlaud, Belf; and, Perouma

Case No. D2023-0695

1. The Parties

The Complainants are Belfius Bank SA, and Belfius Bank NV, Belgium, represented internally.

The Respondents are Zak; M^Axime Durlaud, Belf; and, Perouma, France.

2. The Domain Names and Registrar

The disputed domain names <belfiusbanking.com>, <belfius-connectid.com>, and <2023-belfius.com> are registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 February 22, 2023.

The Registrar also indicated that the language of the registration agreement is French. On February 21, 2023, the Center sent an email communication to the Parties in both French and English inviting the Complainants and the Respondents to submit the arguments considering the language of the proceedings. On February 21, 2023, the Complainant confirmed its request for English to be the language of the proceedings. The Respondents did not comment on the language of the proceedings.

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 French and English, and the proceedings commenced on March 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 3, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on April 18, 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 Belgian bank and financial services provider with over 650 agencies and over 5,000 employees. The Complainant owns some trademarks consisting in all or in part of the term "belfius", including but not limited to European Union trademark No. 010581205 for BELFIUS, registered on May 24, 2012, in International Classes 9, 16, 35, 36, 41, and 45.

The Complainant also owns a large number of domain names featuring BELFIUS trademark, *inter alia* the domain name <belfius.be>, which resolves to its official website where it offers banking and insurance services, and the domain name <belfius.com>, which resolves to a website intended for institutional partners and journalists.

The disputed domain name <2023-belfius.com> was registered on January 6, 2023, the disputed domain name <belfiusbanking.com> was registered on January 5, 2023, and the disputed domain name <belfius-connectid.com>, registered on January 3, 2023. At the time of filing, none of the disputed domain names resolved to active websites.

5. Parties' Contentions

A. Complainant

The Complainant submits that a consolidation of the Complaint, which is filed against multiple Respondents, is appropriate in this case since:

- the disputed domain names were created around the same period (January 3, 5, and 6 2023),
- the disputed domain names use the same privacy protection service which points to a concealment of identity,
- none of the disputed domain names resolve to an active webpage at the time of filing of the Complaint,
- the disputed domain names all use the same Registrar,
- the disputed domain names incorporate the Complainant's mark BELFIUS in its entirety,
- the disputed domain names refer directly to the mark BELFIUS, alone or in combination with terms ("banking", "2023" and "connectid"),
- the Respondents' data for the disputed domain names, provided by the Registrar, strongly suggest that they do not correspond to reality, which also points to a concealment of identity. This argument is supported by the fact that the Complainants did not receive a reaction on any on the

Cease-and-Desist letters, which were sent to the listed email addresses. The names and addresses thus seem to have been randomly picked, invented or stolen from existing persons.

The Complainant further requests that English be the language of the administrative proceeding. To the best of the Complainant's knowledge at the time the first Complaint was submitted, the language of the Registrar's general terms and conditions related to disputed domain names, which a Registrant must fully accept when registering a domain name, was English. The Complaint has therefore been submitted in

English. According to the information provided by the Center the language of the registration agreement for the disputed domain name is actually French, but the Complainant submits that people in France are particularly likely to speak English as a foreign language, so it is justified to adopt English to be the language of the proceeding.

On the substance the Complainant contends that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights since the disputed domain names incorporate the Complainant's BELFIUS trademark in its entirety. The addition of the number "2023", the terms "connectid" and "banking" does not lessen the inevitable confusion of the disputed domain name with the Complainant's BELFIUS trademark, to the contrary, since the disputed domain names are likely to make assume Internet users that the website that is linked to the domain name offers some kind of services supplied by the Complainant, which obviously is not the case.

The Complainant further contends that the Respondent lacks any rights or legitimate interests in respect of the disputed domain names. The Respondents are neither affiliated with the Complainant in any way nor have they been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating the said trademark. Second, there is no evidence that the Respondents own any trademark rights on BELFIUS nor that they seem to carry out any legitimate activity. In addition, the Respondents are not making a legitimate noncommercial or fair use of the disputed domain names since the Respondent is not making any use of the disputed domain names in connection with an active website or even indicating demonstrable preparations to use the disputed domain names.

The Complainant finally contends that the disputed domain names were registered and are being used in bad faith. According to the Complainant it is thus evident that the Respondent had or should have had knowledge of the existence of the Complaint and its BELFIUS trademark, as the disputed domain names incorporate the Complainant's trademark BELFIUS in its entirety, with the addition of non-distinctive words or letters. The Complainant furthermore submits that the disputed domain names are being used in bad faith. At the date of the submission of the Complaint, the Respondents clearly did not use or had the intention to use the disputed domain names for purposes of *bona fide* offering of goods and services over the Internet. The Complainant also contends that passive holding does not preclude a finding of bad faith, since the state of inactivity does not mean that the disputed domain names are used in good faith.

B. Respondent

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

6. Discussion and Findings

Before addressing the three substantive elements of the Policy, the Panel must two procedural issues

6.1. Preliminary Matter: Language of the proceeding

The Panel notes that the language of the Registration Agreements is French. The Complaint was filed in English, and further to the Complainant's contentions listed above, the Complainant has requested English to be the language of the proceeding since "People in France are particularly likely to speak English as a foreign language".

The Panel also notes that the email communications from the Center were provided in both French and English, and that the Respondents nevertheless did not reply.

The Panel has therefore decided to render this decision in English.

6.2. Preliminary Matter: Consolidation

The Panel must also address a further procedural issue, namely whether to accept in the present procedure that the Complaint against the three distinct Respondents, may be consolidated.

As it is stated in the first paragraph of section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) that “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”. Paragraph two of the section then lists several factors that UDRP panels have considered in determining whether a consolidation is appropriate.

In this case, the disputed domain names are all “constructed” the same way, they are all registered with the same Registrar and within a few days, they all use the same Privacy service, and it is obvious to the Panel, that the names and other contact details of all the named Respondents are false. Applying the abovementioned principles to these facts, and in the absence of any response from the Respondents, the Panel finds that the Complainant has established more likely than not that the Respondents are either one and the same person, entity, or network, or are somehow connected to each other, and that the disputed domain names are therefore subject to common ownership or control.

The Panel further finds that consolidation would be fair and equitable to all parties and procedurally efficient.

The Panel therefore allows the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules.

6.3 Substantive Matters of the Complaint

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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

- (i) that the domain name registered by the respondent 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 domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences there from as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain names are all confusingly similar (in the sense of the Policy) to the Complainant’s registered trademark BELFIUS.

The disputed domain names comprise the Complainant’s BELFIUS trademark in its entirety together with the number “2023-” as prefix and the terms “banking” and “-connectid” as suffixes respectively. None of these additions prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

The generic Top-Level Domains “.com” are a standard registration requirement and as such generally disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to all the disputed domain names.

B. Rights or Legitimate Interests

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names.

The Respondent has not produced, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain names on the part of the Respondent in these proceedings. Given the incorporation of the Complainant's trademark in its entirety in the disputed domain names, the Respondent clearly intended to create a risk of implied affiliation with the Complainant to mislead unsuspecting Internet users. In addition, considering that the Respondent used fraudulent registration details, it is clear that the Respondent lacks rights or legitimate interests in the disputed domain names.

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder has registered the domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain names primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain names, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website 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 holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain names have been registered and are being used in bad faith.

Given the circumstances of the case, in particular the distinctive nature of the Complainant's trademark BELFIUS, and the fact that the Respondent has registered three disputed domain names that are confusingly similar to the Complainant's mark, the Panel finds that the Respondent has registered the disputed domain names with prior knowledge of the Complainant and the Complainant's marks.

The Panel therefore finds that the disputed domain names were registered in bad faith.

The fact that the disputed domain names are not used for any active websites does not prevent a finding of bad faith use, in a case like this where the disputed domain names all incorporate a distinctive trademark, that no response has been filed, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain names, and that the Respondent is clearly attempting to hide its true identity through the use of a privacy service and fraudulent underlying contact details. See section 3.3 of the [WIPO Overview 3.0](#).

Based on the above findings and and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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, <belfiusbanking.com>, <belfius-connectid.com>, and <2023-belfius.com>, be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: May 2, 2023