

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2023-1801

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, represented internally.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <mobilebelfius.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 21, 2023. On April 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 May 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 30, 2023.

The Center appointed Mladen Vukmir as the sole panelist in this matter on June 9, 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 Panel has determined the following non-contested facts:

- (i) The Complainant is Belfius Bank SA/ Belfius Bank NV of Brussels, Belgium, the renowned Belgian bank and financial services provider;
- (ii) The Complainant's group is the owner of numerous trademarks incorporating word BELFIUS (hereinafter: "BELFIUS trademarks")

Trademark	Trademark Scope	Reg. no. / Status	Date of registration
BELFIUS	European Union	010581205/registered	May 24, 2012
BELFIUS	Benelux	914650/ registered	May 10, 2012
BELFIUS	Benelux	915962/ registered	June 11, 2012
BELFIUS	Benelux	915963/ registered	June 11, 2012

- (iii) The Complainant is the registrant of several domain names and trade names that include word "Belfius" (<belfius.be>, <belfius.com>; company name "Belfius");
- (iv) The Respondent is the registrant of the disputed domain name, as disclosed by the Registrar;
- (v) The disputed domain name was registered on November 1, 2022, and it resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant states that:

- (i) It is a renowned Belgian bank and financial services provider with a solid reputation in Belgium and beyond. It has more than 5000 employees, over 650 agencies, and is 100% in the government ownership;
- (ii) The Complainant's group owns numerous trademarks incorporating word "Belfius" which is an invented word composed of "Bel" as in Belgium, "fi" as in finance, and the English word "us";
- (iii) 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 <belfius.com>, which redirects to a website intended for institutional partners and journalist as well as many other domain names that include word "Belfius";
- (iv) The disputed domain name is made of the complete incorporation of the Complainant's BELFIUS trademark in combination with the descriptive term "mobile". The disputed domain name is confusingly similar to the disputed domain name and is likely to make assume Internet users that the website that is linked to the disputed domain name offers some kind of services supplied by the Complainant, which is not the case. The Respondent was contacted in order to obtain the transfer of the disputed domain name, but no answer was received;

- (v) The Respondent lacks any rights or legitimate interests in respect of the disputed domain name. The Complainant's BELFIUS trademarks predate the Respondent's registration of the disputed domain name. The Respondent is in no way associated with the Complainant. The Complainant has not licensed, approved or in any way consented to the Respondent's registration and use of the trademark in the disputed domain name. The Respondent has no trademark rights on BELFIUS and does not seem to carry out any (legitimate) activity, and he is not making a legitimate noncommercial or fair use of the disputed domain name;
- (vi) The disputed domain name was registered and is being used in bad faith. The Complainant's BELFIUS trademarks precedes the registration of the disputed domain name. The Respondent knows or should have known of the Complainant's BELFIUS trademarks. If the Respondent had conducted good faith searches before registering the disputed domain name, he would have learned about the Complainant's BELFIUS trademarks. The Complainant has established a substantial presence on the Internet - registered more than 200 domain names worldwide which incorporate BELFIUS trademark. The Respondent had or should have had knowledge of the Complainant's trademark as it incorporates BELFIUS trademark in its entirety with the addition of the word "mobile". The Complainant states that since the registration of the disputed domain name, the Respondent has done nothing lawful with the website to which the disputed domain name resolves. The Respondent's passive holding of the disputed domain name cannot be considered as a *bona fide* offering of goods and services, and there is no evidence of use or demonstrable preparations to use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules and any rules and principles of law that it deems applicable, pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

- (i) the disputed domain name is confusingly similar to a trademark in which the Complainant has rights; and
- (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

As provided in section 1.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), it is generally accepted that ownership of a registered trademark by a complainant is sufficient to satisfy the threshold requirement of having the trademark rights for purposes of standing to file a UDRP case.

The Complainant has submitted evidence to show that it is the holder of a number of BELFIUS trademarks registered before the European Union Intellectual Property Office and Benelux Office for Intellectual Property. As such, these trademarks provide to the Complainant all the exclusive rights that are granted with such trademark registrations.

It is well established that the threshold test for confusing similarity under the UDRP involves a reasoned but relatively straightforward comparison between the textual components of the relevant trademark and the disputed domain name. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see section 1.7 of the [WIPO Overview 3.0](#)).

After performing a side-by-side comparison of the disputed domain name and the Complainant's BELFIUS trademarks, it is evident to this Panel that the disputed domain name incorporates the Complainant's BELFIUS trademark in its entirety. The only difference between the disputed domain name and the Complainant's BELFIUS trademark is the addition of the word "mobile" in the disputed domain name.

Where the trademark in question is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity between the disputed domain name and trademark in question. In this particular case, the added word "mobile" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's BELFIUS trademarks.

Regarding the generic Top-Level Domain ("gTLD"), ".com" in the disputed domain name, as a standard registration requirement, should be disregarded under the confusing similarity test (section 1.11 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's BELFIUS trademark under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a number of circumstances which, without limitation, may be effective for a respondent to demonstrate that it has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy. Those circumstances are:

- "(i) Before any notice to [the respondent] of the dispute, [use by the respondent] of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [Where the respondent] (as an individual, business, or other organization) [has] been commonly known by the disputed domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [Where the respondent is] making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

As noted by the previous UDRP panels on the onus of proof under paragraph 4(a)(ii) of the Policy, and as summarized in section 2.1 of the [WIPO Overview 3.0](#): "[...] While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, 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."

In the present case, the Complainant has made a *prima facie* case that the Respondent lacks rights or

legitimate interests in the disputed domain name, with the Respondent failing to provide any substantive response to the Complaint which would prove his rights or legitimate interests in the disputed domain name.

Namely, the Complainant has established that it is the holder of a number of BELFIUS trademarks, as well as that it has used the same trademarks widely on the market. The Panel concludes that there is neither any relation, disclosed to the Panel, nor otherwise apparent from the records, between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its BELFIUS trademarks or to apply for or use any domain name incorporating the same trademarks.

Furthermore, there is no evidence that the Respondent has been commonly known by the disputed domain name. Also, there is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent has failed to provide any substantive reply to the Complaint and accordingly failed to rebut the Complainant's *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the requirements set forth in paragraph 4(a)(ii) of the Policy have been fulfilled by the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and by the Respondent's failing to produce any arguments or evidence to the contrary.

C. Registered and Used in Bad Faith

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

“(i) circumstances indicating that the holder has registered or has acquired the domain name 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 name 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 name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, 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.”

The Panel accepts the Complainant's arguments that the Respondent has registered and used the disputed domain name in bad faith. Based on evidence provided by the Complainant this Panel concludes that the Complainant's BELFIUS trademarks are well-known and that it is highly unlikely that the Respondent was unaware of the Complainant and its trademarks when he registered the disputed domain name.

Previous UDRP panels have found that the incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)). Moreover, in earlier UDPR decisions panels have found that

the respondents who fail to search and/or screen registrations against available databases would be responsible for any resulting abusive registrations under the concept of wilful blindness, as provided in section 3.2.3. of the [WIPO Overview 3.0](#).

In this Panel's view, by registering the disputed domain name that contains the Complainant's BELFIUS trademarks, the Respondent is attempting to take advantage of the Complainant's reputation, and well-known trademarks.

The Panel considers the passive holding of the disputed domain name in light of provisions of section 3.3. of the [WIPO Overview 3.0](#). Namely, in earlier cases panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. The panel should look at the totality of the circumstances in each case. Accordingly, this Panel has considered the relevant factors as the degree of distinctiveness and the reputation of the Complainant's mark, the failure of the Respondent to provide any evidence of actual or contemplated good-faith use, the Respondent's use of false contact details, and the implausibility of any good faith use to which the disputed domain name may be put.

Given the above, the Panel finds that the Respondent by registering and using the disputed domain name is attempting to take advantage of the Complainant's reputation and concludes that the disputed domain name has been registered and is being used in bad faith. The Complainant has fulfilled the third element under paragraph 4(a) 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 <mobilebelfius.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: June 23, 2023