

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Agar Kebon
Case No. D2023-1844

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, represented by Constance Dumortier, Belgium.

The Respondent is Agar Kebon, France.

2. The Domain Name and Registrar

The disputed domain name <login-belfius-be.com> is 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 April 25, 2023. On April 25, 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 sent an email communication on May 2, 2023, informing the Complainant that the language of the registration agreement for the disputed domain name is French, and inviting the Complainant to submit satisfactory evidence of an agreement between the parties to the effect that the proceedings should be in English; or submit the Complaint translated into French; or submit a request for English to be the language of the proceedings. The Complainant filed an amendment to the Complaint requesting for English to be the language of the proceedings on May 2, 2023.

The Center verified that the Complaint together with the amendment to 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 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2023.

The Center appointed Emre Kerim Yardimci 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 Complainant Belfius Bank SA / Belfius Bank NV is a banking and finance group operating in Belgium.

The Complainant is the owner of the following trademarks for or incorporating BELFIUS:

- The European Union registration no. 010581205 BELFIUS, filed on January 23, 2012, and registered on May 24, 2012;
- The Benelux registration no. 914650 BELFIUS, filed on January 23, 2012, and registered on May 10, 2012; and
- The Benelux registrations no. 915963 and 915962 BELFIUS (fig.), filed on March 2, 2012, and registered on June 11, 2012.

The Complainant is also owner of not less than 200 domain names including <belfius.be> and <belfius.com>.

The disputed domain name was registered on October 27, 2022, and resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is confusingly similar, and at the same time, incorporating the Complainant's well-known trademark BELFIUS and that the addition of the descriptive terms "login" and "be" do not lessen the association between the disputed domain name and the Complainant's trademark.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark BELFIUS.

The Complainant further asserts that although the Respondent is not using the disputed domain name, any future use cannot be considered for a *bona fide* offering of goods and services.

Finally, in addressing the question of registration and use of the disputed domain name in bad faith, the Complainant observes that the Respondent is well aware of the Complainant's trademark considering its trademark is so widely well-known that it is inconceivable that the Respondent ignored the Complainant or its earlier rights and that anyway a quick trademark search would have revealed to the Respondent the existence of the Complainant and its trademarks.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, 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.

The Registrar has confirmed that the Registration Agreement is in French in this case. The Complaint was filed in English, in which the Complainant had requested English to be the language of the proceeding.

The Center provided the Respondent with an opportunity to argue/comment its response in French. The Respondent has not objected to the Complainant's request on language of the proceeding and did not submit its Response.

Due to lack of response by the Respondent, the Panel decided, in accordance with paragraph 11(a) of the Rules, that the language of the proceeding as English.

6.2. Substantive Issues

According to paragraph 4(a) of the Policy, the Complainant must prove that;

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

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar for the purpose of the Policy to the Complainant's trademark BELFIUS.

The disputed domain name wholly incorporates the Complainant's distinctive trademark and the terms "login" and "be" which do not prevent confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.8.

As regards the generic Top-Level Domain, it is typically disregarded under the confusing similarity test.

For the reasons mentioned above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's BELFIUS trademark. The Complainant has thus fulfilled paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The *onus* is upon the Complainant to make out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case.

The Panel accepts the Complainant's submissions that the Respondent does not appear to have been known by the disputed domain name, has not made demonstrable preparations to use the disputed domain name, and the Respondent is not making a legitimate noncommercial use of the disputed domain name.

The Respondent has not filed a Response. It has no consent from the Complainant to register any domain name incorporating the Complainant's trademark, it has not used the disputed domain names for a *bona fide*

offering of goods or services, and the Respondent is not commonly known by the disputed domain name, nor is it making noncommercial fair use of the disputed domain name.

The current passive holding of the disputed domain name does not give rise to any rights or legitimate interests.

In addition, the Panel finds that the nature of the disputed domain name, incorporating the Complainant's trademark in its entirety with the addition of terms "-be" (geographical abbreviation for Belgium), and "login" carries a risk of implied affiliation with the Complainant.

In the Panel's view, the Complainant has made out their *prima facie* case under this element of the Policy and the Respondent, who is in default, has failed to rebut this case.

In the circumstances of this case, and in view of the Panel's discussion below, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel accepts the Complainant's assertions that the trademark BELFIUS is a well-known trademark.

The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

The Respondent has registered the disputed domain name but has not put it to any material use. Thus, the Respondent is holding the disputed domain name passively. It has long been generally held in UDRP decisions that the passive holding of a domain name that incorporates a well-known trademark, without any actual or contemplated good faith use for an Internet purpose, does not necessarily circumvent a finding that the domain name is in use within the requirements of paragraph 4(a)(iii) of the Policy (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). The Panel therefore finds that the non-use of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0.](#), section 3.3.

Given the Respondent's lack of participation in this proceeding, the nature of the disputed domain name, and the lack of any credible good-faith use to which the confusingly similar disputed domain name could be put, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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 <login-belfius-be.com> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: June 29, 2023