

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. sammy pozzi
Case No. D2023-1901

1. The Parties

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

The Respondent is sammy pozzi, Germany.

2. The Domain Name and Registrar

The disputed domain name <blfius-be.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 27, 2023. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 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 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 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 1, 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 Respondent is the registrant of the disputed domain name, as disclosed by the Registrar; and
- (iv) The disputed domain name was registered on March 1, 2023, and it resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant, essentially, asserts that:

- (i) It is a renowned Belgian bank and financial services provider with a solid reputation in Belgium and beyond. It has more than 5,000 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 with the addition of the descriptive term "be". The disputed domain name is identical to the Complainant's registered mark BELFIUS, differing only by the suppression of the "e". 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 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 fact that the disputed domain name contains BELFIUS trademark with a slight misspelling, in the Complainant's opinion confirms that the Respondent knew about the Complainant and its BELFIUS trademarks. The Respondent has registered the disputed domain name on March 1, 2023 and seems to have done nothing lawful with the website to which the disputed domain name resolves, no other content is displayed on the website. The Complainant states that such use cannot be considered as a *bona fide* offering of goods and services, that the Respondent identity looks fictitious and that 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 (hereinafter: "[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 UDPR case.

The Complainant has submitted evidence to show that it is the holder of several BELFIUS trademarks, which are duly 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 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(section 1.7 of the [WIPO Overview 3.0](#)).

After performing the straightforward visual and aural comparison, it is evident to this Panel that the disputed domain name incorporates the Complainant's BELFIUS trademark in its entirety slightly misspelled (omission of letter "e") with the addition of the term/the country code for Belgium - "be".

In this Panel's view, omission of letter "e" in case of the disputed domain name can be seen as a typographical error, or as an intentional misspelling of the Complainant BELFIUS trademark (typosquatting). As provided in section 1.9 of [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark should be considered as confusingly similar to the relevant mark for purposes of the first element. The addition of the term/the country code for Belgium - "be" does not prevent finding a confusing similarity between the disputed domain name and BELFIUS trademark.

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

For all the foregoing reasons, the Panel holds that the disputed domain name is confusingly similar to the Complainant's BELFIUS trademark within the meaning of 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 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 this case, the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of Paragraph 4(a) of the Policy. The Complainant provided evidence that the disputed domain name is confusingly similar to the Complainant's BELFIUS registered and well-known trademarks. The Respondent is not authorized by the Complainant to use the disputed domain name, and there is no indication that the Respondent is known under the disputed domain name. There is no apparent relation 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 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.

As that here is no evidence that the Respondent is in any way permitted by the Complainant to use the BELFIUS trademark nor is there any evidence that the Respondent has made any *bona fide*, fair or otherwise legitimate use of BELFIUS trademarks, the Panel concludes that the Respondent has no rights or legitimate interest to use the disputed domain name which includes the misspelled Complainant's BELFIUS trademark, and with the addition of the word "be".

The Respondent has failed to provide any reply to the Complaint, and accordingly failed to prove that it has rights or legitimate interest in the disputed domain name.

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 supported by evidence that the Respondent has registered and used the disputed domain name in bad faith. The Complainant has filed sufficient evidence to prove that its 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.

Noting the registrant obligations under UDRP paragraph 2, panels in earlier decisions 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 disputed domain name resolves to an inactive website. 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 panels 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 reputation of the Complainant's mark, the failure of the Respondent to provide any evidence of actual or contemplated good-faith use, 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 by capturing traffic from Internet users looking for the Complainant, but misspelling its name. Such conduct of the Respondent should be considered as evidence of bad faith.

The Panel concludes that the disputed domain name has been registered and is being used in bad faith, and that 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 <blfius-be.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: June 23, 2023