

## **ADMINISTRATIVE PANEL DECISION**

Belmont Village, L.P. v. Rich Seeley  
Case No. D2023-2269

### **1. The Parties**

Complainant is Belmont Village, L.P., United States of America (“United States”), represented by Smith, Gambrell & Russell, LLP, United States.

Respondent is Rich Seeley, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <thebelmontvillageseniorliving.com> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2023. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 25, 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 (Unknown/Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on May 30, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 31, 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 Respondent of the Complaint, and the proceedings commenced on June 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 4, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on July 10, 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

Complainant is a United States company. Since decades prior to the registration of the disputed domain name, Complainant has offered assisted living services under its mark BELMONT VILLAGE. Complainant owns numerous trademark registrations for the BELMONT VILLAGE mark and variations thereof. These include, among others, United States Trademark Registration No. 2265492 (registered July 27, 1999) for BELMONT VILLAGE and United States Trademark Registration No. 4907602 for BELMONT VILLAGE SENIOR LIVING (stylized and disclaiming the exclusive right to use the term “senior living” apart from the mark as shown) (registered March 1, 2016).

The disputed domain name was registered on May 8, 2023. The disputed domain name is not currently linked to an active website.

#### 5. Parties' Contentions

##### A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the BELMONT VILLAGE mark as well as to the domain name <belmontvillage.com>, which Complainant uses in connection with its assisted living services. Complainant further contends that it owns rights in the mark BELMONT VILLAGE SENIOR LIVING, which Respondent has incorporated in full into the disputed domain name with the addition only of the non-source-identifying article “the.” Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name, and rather has registered and is using it in bad faith, having simply acquired the disputed domain name for Respondent's own commercial gain.

##### B. Respondent

Respondent did not reply to Complainant's contentions.

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates-in-full the BELMONT VILLAGE and BELMONT VILLAGE SENIOR LIVING marks, which are registered trademarks owned by Complainant. The disputed domain name further includes the article “the”.

Numerous UDRP panels have agreed that supplementing or modifying a trademark with dictionary words does not make a domain name any less “identical or confusingly similar” for purposes of satisfying this first prong of paragraph (4)(a)(i) of the Policy. See, for example, *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Panel next considers whether Complainant has shown that Respondent has no “rights or legitimate interests,” as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name “in connection with a *bona fide* offering of goods or services;” (ii) demonstration that respondent has been “commonly known by the domain name;” or (iii) “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

No evidence has been presented to the Panel that might support a claim of Respondent’s rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

Moreover, the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

## **C. Registered and Used in Bad Faith**

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel’s decision, the disputed domain name is not currently linked to an active website. It is nevertheless well established that having a passive website does not necessarily shield a respondent from a finding of bad faith. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), Section 3.3, which notes that the “non-use of a domain name” does not necessarily negate a finding of bad faith.

Rather, a panel must examine “the totality of the circumstances,” including, for example, whether a complainant has a well-known or distinctive trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here did not formally respond to the Complaint, and has registered using a privacy service. Given the incorporation of Complainant’s registered mark into the disputed domain name, and the lack of evidence denying the distinctiveness of the mark, the Panel finds sufficient evidence that Respondent was likely aware of Complainant’s rights at the time of registering the disputed domain name.

Therefore, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph (4)(a)(iii) 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 <thebelmontvillageseniorliving.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Date: July 24, 2023