

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Silvanus Amoah
Case No. D2023-2651

1. The Parties

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

The Respondent is Silvanus Amoah, France.

2. The Domain Name and Registrar

The disputed domain name <belfiws.net> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 23, 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 July 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on August 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

The Complainant is a Belgian bank and financial services provider.

The Complainant is the owner of registered trademarks in the mark BELFIUS including, *inter alia*:

- European Union Trademark No. 010581205 for BELFIUS, registered on May 24, 2012, in International Classes 9, 16, 35, 36, 41 and 45;
- Benelux Trademark No. 0914650 for BELFIUS, registered on May 10, 2012, in International Classes 9, 16, 35, 36, 41 and 45;
- Benelux Trademark No. 0915962 for BELFIUS (figurative), registered on June 11, 2012, in International Classes 9, 16, 35, 36, 41 and 45; and
- Benelux Trademark No. 0915963 for BELFIUS (figurative), registered on June 11, 2012, in International Classes 9, 16, 35, 36, 41 and 45.

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

The disputed domain name <belfivs.net> was registered on May 17, 2023, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant introduces itself as a renown Belgian bank. In substance, its main arguments can be summarized as follows:

- (1) The Complainant owns numerous trademarks and domain names, registered all over the world and containing the distinctive word "belfius" prior to the registration of the disputed domain name. The disputed domain name is virtually identical to the Complainant's registered mark, differing only by the replacement of the "u" by a "v". The replacement of the "u" constitutes typosquatting, which does not significantly affect the appearance or pronunciation of the disputed domain name. The applicable generic Top-Level Domain ("gTLD") ".net" in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.
- (2) Trademark registrations predate the registration of the disputed domain name. In addition, the Complainant asserts that it has not licensed, approved or in any way consented to the Respondent's registration and use of the disputed domain name. Then, the Complainant puts forward that the Respondent has no trademark rights on "belfius" and does not seem to carry out any legitimate activity. Besides, the Complainant claims that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name because it is not using them in connection with an active website and does not prevail itself of demonstrable preparations of use.
- (3) The Respondent had or should have had knowledge of the BELFIUS trademark when it registered the disputed domain name. The Respondent clearly does not use or does not seem to have the intention to use the disputed domain name for purposes of *bona fide* offering of goods and services over the Internet. As the Respondent does not own any rights and does not have any legal interest in the disputed domain name, it cannot pretend that it will use it in good faith. The Respondent is attempting

to take advantage of the Complainant's reputation by capturing traffic from Internet users looking for the Complainant, but misspelling its name. This form of "typosquatting" is considered bad faith within the meaning of the Policy.

Besides, the Complainant contends that the passive holding of the disputed domain name amounts to bad faith use because it is difficult to imagine any plausible future active use of it by the Respondent. Moreover, the Complainant claims that the concealment of the Respondent's identity is an indication of bad faith, as this was not inspired by a legitimate need to protect its identity but solely to make it difficult for the Complainant to enforce its trademark rights. Furthermore, the Complainant argues that the Respondent did not reply to the cease and desist notice it sent, what supports an inference of bad faith. The Respondent has registered the disputed domain name primarily for the purpose of trying to gain unfair benefit of the Complainant's goodwill and reputation by using the disputed domain name, which suggests an effort to create a likelihood of confusion with the Complainant's trademarks and domain name as to the source, sponsorship, affiliation. Passive holding does not preclude a finding of bad faith in the circumstances of the case

B. Respondent

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

6. Discussion and Findings

According to paragraphs 14(a) and 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, and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks 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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Complainant has demonstrated ownership of its BELFIUS trademarks. Therefore, the Panel is satisfied that the Complainant has registered trademark rights in the BELFIUS marks. See [WIPO Overview 3.0](#), section 1.2.1.

The Panel is also of the view that the disputed domain name is confusingly similar to the Complainant's trademarks because it incorporates the trademark in its entirety, merely replacing of the "u" letter by "v", and the gTLD ".net". The Panel agrees with the Complainant that this is a clear case of typosquatting since the

disputed domain name is a slight misspelling of the Complainant's registered trademark (see Section 1.9 of the [WIPO Overview 3.0](#)).

The addition of the gTLD ".net" shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of "proving a negative", in particular as the evidence needed to show the Respondent's rights or legitimate interests is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy.

In the present case, the Complainant has established a *prima facie* case providing sufficient evidence which prove that it obtained rights over the well-known trademark BELFIUS prior to registration of the disputed domain name.

The Complainant made sufficient statements in order to demonstrate that the Respondent would have no rights or legitimate interests in the disputed domain name. The Panel has found out that the Respondent is not a licensee of the Complainant and not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its trademarks in a domain name or otherwise. There is no relationship whatsoever between the parties and the Respondent has clearly modified the Complainant's trademarks for its own use and incorporated them into the disputed domain name without the Complainant's authorization.

The present submissions also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

The disputed domain name resolves to an inactive webpage. According to this Panel, the Complainant also proved that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor is it using the disputed domain name in connection with a *bona fide* offering of goods or services, so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's trademark registrations significantly predate the registration date of the disputed domain name. In addition, the Complainant enjoys a long-lasting worldwide reputation, which has now been established by previous panels for years. Therefore, under this Panels' view, the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. UDRP panels have consistently found that the mere registration of a

domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (*Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#)).

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name was registered in bad faith by the Respondent.

Furthermore, the disputed domain name resolves to an inactive website. It has been established in many UDRP cases that passive holding under the appropriate circumstances falls within the concept of a domain name being used in bad faith. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The case file clearly shows that having registered the disputed domain name in May 2023, the Respondent has done nothing with the website to which the disputed domain name resolves, since no content is displayed on it. Therefore, the Panel is of the view, that by registering a visually and phonetically similar disputed domain name to the Complainant's trademark that is a misspelling of that mark, the Respondent is attempting to take advantage of the Complainant's reputation by capturing traffic from Internet users looking for the Complainant, but misspelling its name. This form of typosquatting is considered bad faith within the meaning of the Policy (*Sanofi-aventis v. Elizabeth Riegel and Andrew Riegal*, WIPO Case No. [D2005-1045](#)).

The Respondent did not reply to the cease and desist notices sent by the Complainant that also supports an inference of bad faith.

The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible.

In light of the above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and that the Complainant has established its case under 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, <belfivs.net> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: August 21, 2023