

ADMINISTRATIVE PANEL DECISION

Belmond Management Limited v. fikrloksa liskain

Case No. D2023-2865

1. The Parties

1.1 The Complainant is Belmond Management Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

1.2 The Respondent is fikrloksa liskain, United Kingdom.

2. The Domain Name and Registrar

2.1 The disputed domain name <napasaiabelmondhotel.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2023. At that time the publicly available Whois details for Domain Name were recorded as “Redacted for Privacy”. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing the underlying registrant and contact information for the Domain Name. The Center sent an email communication to the Complainant on July 17, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 20, 2023.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 21, 2023.

3.4 The Center appointed Matthew S. Harris as the sole panelist in this matter on August 24, 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

4.1 The Complainant is an owner and operator of luxury hotels, trains, river cruises, and safari lodges. It operates a portfolio of 50 properties across 24 countries. It was formerly known as Orient-Express Hotels and rebranded to Belmond in 2014. Hotels owned by the Complainant include Hotel Cipriani in Venice, Italy, Splendido in Portofino, Italy, Copacabana Palace in Rio de Janeiro, Brazil, Le Manoir aux Quat'Saisons in Oxfordshire, United Kingdom, and the Hotel das Cataratas, in the Iguassu National Park, Brazil. Trains operated by the Complainant include the Venice Simplon-Orient-Express, and Royal Scotsman. In April 2019, the Complainant was acquired by and became a part of the LVMH group.

4.2 The Complainant is the owner of various registered trade marks around the work that takes the form of the word "Belmond" in stylised text combined with a small circular device that takes the following form:



These trade marks include:

- (i) United States of America registered trade mark no 4832479 with a registration date of October 13, 2015, in classes 35, 36, 39, and 43;
- (ii) European Union registered trade mark no 012293411 with a registration date of November 8, 2014, in classes 35, 36, 39, and 43; and
- (iii) Thailand registered trade mark no. ๖66962 with a registration date of July 13, 2015, in class 39.

4.3 The Complainant also promotes its business using a website that operates from the domain name <belmond.com>.

4.4 One of the hotels operated by the Complainant is the Napasai Hotel in Thailand. That hotel is promoted from the Complainant's website from the URL: "<https://www.belmond.com/hotels/asia/thailand/koh-samui/belmond-napasai/>". At the top of that page on the website appears the following text:

"NAPASAI,
A BELMOND HOTEL
KOH SAMUI"

4.5 The Domain Name was registered on January 20, 2023. It has been used since registration to send email falsely purporting to be sent by the "Reservations Department" of the Napasai Hotel, to potential guests of that hotel requesting them to make credit card payments in order to secure a reservation.

4.6 According to the underlying registration details provided by the Registrar, the registrant of the Domain Name is an individual or entity based in the United Kingdom, but it is likely that the information provided in this respect is false. The "name" provided does not obviously match a name in any language, the address provided refers to the city of London and includes a post code in London but also refers to "London, Minesota" and incorporates a meaningless combination of letters as the relevant state or province. The telephone contract number provided also appears to be a number in the United States of America.

4.7 Cease and desist letters were sent by the Complainant's representative to the Respondent by email on March 1, 2023, March 13, 2023, and March 23, 2023. There was no response to any of those communications.

5. Parties' Contentions

A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

5.2 Notably, the Complainant sets out the facts and matters which are recorded in the Factual Background section of this decision. It contends that the Domain Name comprises the Complainant's trade mark and terms that are descriptive of the Complainant's hotel in Thailand. It further contends that the Respondent has no right or legitimate interests in the Domain Name and that the Respondent's activities, which it describes as fraudulent demonstrates that the Respondent has registered and used the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

6.1 It is generally accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

6.2 Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

6.3 The Panel finds the mark is recognisable within the Domain Name. The term "Belmond" is the predominant part of each of the Complainant's registered marks and the Domain Name can only be sensibly read as this term combined with the terms "napasaia" and "hotel" and the ".com" gTLD. Accordingly, the Domain name is confusingly similar to the mark for the purposes of the Policy and the addition of the terms "napasaia" and "hotel", which are merely descriptive of part of the Complainant's business, does not prevent such a finding. [WIPO Overview 3.0](#), sections 1.7 and 1.8. Accordingly, the first element of the Policy has been established.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

6.4 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together. [WIPO Overview 3.0](#), section 2.15.

6.5 The Panel accepts that the Domain Name has been deliberately registered in order to falsely impersonate the Complainant. Not only does the Domain Name alone inherently impersonate the Complainant's business, but it has been used for emails falsely purporting to come from one of the Complainant's hotels with a view to fraudulently procuring the making of credit card payments.

6.6 There is obviously no right or legitimate interest in holding a domain name for the purpose of furtherance of a fraud through impersonation (see section 2.13 of the [WIPO Overview 3.0](#)), and the fact that a domain name is or has been used for such a purpose is evidence that no such right or legitimate interest exists. Further, the registration and use of a domain name for such a purposes involves registration and use in bad faith (see, section 3.4 of the [WIPO Overview 3.0](#)). Arguably such activities fall with the scope of the example circumstances evidencing bad faith registration set out in paragraph 4(b)(iv) of the Policy. However, whether or not this strictly falls within this example, it is difficult to conceive of a more clear-cut example of bad faith registration and use of a domain name.

6.7 In the circumstances, the Panel finds that the second and third elements of the Policy have been established.

7. Decision

7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <napasaibelmondhotel.com>, be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: September 6, 20221