

## **ADMINISTRATIVE PANEL DECISION**

Belmond Management Limited v. Dan Steph  
Case No. D2023-3154

### **1. The Parties**

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

The Respondent is Dan Steph, United States of America.

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

The disputed domain name <belmond.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 July 21, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 24, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 31, 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 August 1, 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 the Respondent of the Complaint, and the proceedings commenced on August 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed Charles Gielen as the sole panelist in this matter on September 11, 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 the owner and operator of luxury hotels, trains, river cruises and safari lodges. The Complainant holds a portfolio of registrations for the trade mark BELMOND in several countries and regions in the world, including United States of America trade mark registration, No. 4832479, registered on October 20, 2015; and European Union Trade Mark No. 012293411, registered on November 8, 2014, both for goods and services in classes 35, 36, 39, and 43.

The Complainant owns the domain name <belmond.com> under which it operates its website since 2014.

The disputed domain name was registered on March 13, 2023, and resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends it is an internationally renowned owner and operator of luxury hotels, trains, river cruises and safari lodges. Its portfolio contains 50 properties extending across 24 countries. The Complainant was formerly known as Orient-Express Hotels and rebranded as Belmond in 2014. Among others it includes hotels like Hotel Cipriani in Venice and Copacabana Palace in Rio de Janeiro. The Complainant furthermore operates legendary trains, such as the Venice Simplon-Orient-Express as well as the Royal Scotsman. It also operates river cruises such as Les Bateaux Belmond, in France.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trade mark. The disputed domain name differs from the Complainant's trade mark by one letter. The letter "n" in the disputed domain name has been replaced by the letter "m" and must therefore be considered as an example of typo squatting, which intentionally takes advantage of Internet users that inadvertently type an incorrect address – often a misspelling of the Complainant's trademark – when seeking to access the trade mark owner's website. Such a deliberate misspelling of a trade is intended to confuse Internet users. A domain name containing such a misspelling is therefore a confusingly similar domain name. The Complainant also submits that in assessing whether a disputed domain name is confusingly similar to a trade mark, the generic Top-Level Domain ("gTLD") is disregarded. Therefore, the disputed domain name is confusingly similar to the trade mark BELMOND.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. First, the Respondent is not sponsored by, or affiliated with the Complainant in any way. Second, there is no indication that the Respondent is commonly known by the disputed domain name. Third, the Complainant has not granted any permission to anyone, which includes the Respondent, to register domain names containing the Complainant's trade mark or similar signs. Fourth, at the time of filing of the Complaint, the Respondent was using a privacy Whois service, which equates to a lack of legitimate interest. Furthermore, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods and services. It uses the disputed domain name to facilitate email phishing attacks, targeting potential customers of the Complainant. Specifically, the disputed domain name has been used to send out an email communication from an email address using the disputed domain name, purporting to originate from the Complainant's business, to send a scam email requesting a bank transfer to an unverified account in order for the customer to secure their reservation.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant gives several reasons for this. With respect to the registration, the Complainant contends that the disputed domain name has been registered in bad faith because at the time of registration the Respondent must have been aware of the well-known trade mark BELMOND. Also, by registering a domain name that is a one-letter typo variation of the Complainant's trade mark, the Respondent has created a domain name that is confusingly similar to the Complainant's trade mark. The bad faith of the use of the disputed domain name is proven by the fact that the Respondent is creating a strong likelihood of confusion by misappropriating the Complainant's trade mark in the disputed domain name. The Respondent has attempted to impersonate the Complainant in order to gain benefits for itself.

The Complainant also contends that the bad faith intentions of the Respondent follow from the fact that the Respondent registered several other domain names that misappropriate the trade marks of well-known brands and businesses. This fact demonstrates that the Respondent is engaging in a pattern of cybersquatting and typo squatting, which is evidence of bad faith registration and use of the disputed domain name. Examples of such registrations are:

- <espresif.com> (Espressif Systems (Shanghai) Co., Ltd. China, owning the trade mark ESPRESSIF)
- <livonation.com> (LIVE NATION WORLDWIDE, INC., owning the trade mark LIVE NATION)
- <mgmiresorts.com> (MGM Resorts International (USA), owning the trade mark MGM RESORTS INTERNATIONAL)
- <hilliardscorp.com> (The Hilliard Corporation, owning the trade mark HILLIARD)
- <terramer-us.com> (Terramera, Inc., owning the trade mark TERRAMER)
- <witeltea.com> (WITAL GmbH, owning the trade mark WITAL)

Finally, the bad faith intentions of the Respondent follow from the fact that at the time of registering the disputed domain name, the Respondent was using a privacy service to hide its identity.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Panel is of the opinion that the Complainant's contentions are reasoned, and that the disputed domain name should be transferred to the Complainant pursuant to the Policy.

### **A. Identical or Confusingly Similar**

The Complainant proves that it has rights in the trade mark BELMOND based on different trade mark registrations. The Panel is of the opinion that the disputed domain name <belmomd.com> is confusingly similar to the trade mark of the Complainant. The only difference between the trade mark and the disputed domain name (leaving aside the gTLD ".com") is that the letter "n" in the trade mark has been replaced by the letter "m". This difference clearly is insufficient to take away the confusing similarity. The disputed domain name is a misspelling of the Complainant's BELMOND trade mark and must therefore be considered confusingly similar to the Complainant's trade mark. The disputed domain name is a clear example of typo squatting.

The added suffix ".com" does not change the finding that the disputed domain name is confusingly similar, since the ".com" suffix is understood to be a technical requirement. In making the comparison between the trade mark and the disputed domain name, the gTLD, is therefore disregarded. The Panel is of the opinion that applying these principles to this case, the disputed domain name is confusingly similar to the trade mark.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

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

The Panel is of the opinion that the Complainant made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. First, the Respondent did not show that it owns any rights to the name “belmomd” nor that it has any license from the Complainant to use its trade mark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name “belmomd”.

Third, the Respondent is using the disputed domain name to send out emails to Internet users requesting a bank transfer to an unverified account in order for the customer to secure their reservation, which clearly is a phishing email. The Respondent therefore is not using the disputed domain name to provide a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use, on the contrary. Fourth, at the time of filing of the Complaint, the Respondent was using a privacy Whois service, which according to the Panel shows a lack of legitimate interests.

Finally, the Respondent has not come forward with evidence of any rights or legitimate interests and the Panel does not find any in the present record.

In view of the aforementioned, the Panel is of the opinion that the requirement of paragraph 4(a)(ii) of the Policy is met.

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

The Panel is of the opinion that the disputed domain name was registered and is being used in bad faith. With respect to the registration, the Panel finds that it is plausible that the Respondent must have been aware of the Complainant’s earlier trade mark when it registered the disputed domain name. As the Complainant convincingly argues, the trade mark BELMOND is a well-known trade mark, and it has been in use for quite some time. The disputed domain name merely comprises a one letter misspelling of the Complainant’s BELMOND trade mark, resulting in confusion among unsuspecting Internet users looking for the Complainant’s services, and in misleading such users as to the source of the disputed domain name. This makes the registration of the disputed domain name a bad faith registration.

Furthermore, the Panel is of the opinion that the Respondent, by using a confusingly similar domain name to send out phishing emails will create a likelihood of confusion with the Complainant’s trade mark and its business. This makes the use of the disputed domain name bad faith use. Finally, the Respondent showed a conduct of cybersquatting by registering domain names that are clear misspellings of famous trade marks. This Panel is of the opinion that the finding of bad faith is reinforced by such pattern of conduct. The conclusion therefore is that the disputed domain name has been registered and is being used in bad faith.

The Panel therefore considers the requirement of paragraph 4(a)(iii) of the Policy to be met.

## **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, <belmomd.com>, be transferred to the Complainant.

*/Charles Gielen/*

**Charles Gielen**

Sole Panelist

Date: September 24, 2023