

ADMINISTRATIVE PANEL DECISION

Belmond Management Limited v. nik linandrei, vastaro asdimitrios
Case No. D2023-3483

1. The Parties

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

The Respondents are nik linandrei, Italy and vastaro asdimitrios, Greece.

2. The Domain Names and Registrar

The disputed domain names <belmond-hotel.com> and <belmond-hotels.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 August 21, 2023, providing the registrants 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 25, 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 September 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on October 2, 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, Belmond Management Limited is an internationally renowned owner and operator of luxury hotels, trains, river cruises, and safari lodges. The Complainant's portfolio covers 50 properties extended across 24 countries, encompassing treasured city hotels, the most coveted destination hotels, luxury safari lodges, river cruises, and luxury trains.

On April 2019, the Complainant joined the LVMH group.

The Complainant owns trademark registrations for BELMOND across various jurisdictions, such as the following: the United States of America registration number 4832479 for BELMOND with device, filed on November 8, 2013, and registered on October 13, 2015, covering services in Nice classes 35, 36, 39 and 43; and the European Union trademark registration number 12293411 for BELMOND with device, filed on November 8, 2013, and registered on November 8, 2014, covering services in Nice classes 35, 36, 39, and 43.

The Complainant also has a strong presence online on its main website "www.belmond.com", as well as on social media platforms.

The disputed domain name <belmond-hotel.com> was registered on July 5, 2023, and has been used as part of an identity theft and fraud scheme. The Respondent has used the email address "[...@belmond-hotel.com]" to send emails impersonating the Complainant.

The disputed domain name <belmond-hotels.com> was registered on July 6, 2023, and it has been used for a website that contained pay-per-click ("PPC") links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Complaint be consolidated. The Complainant thus believes that two disputed domain names are under common control, for the following reasons:

- The two disputed domain names <belmond-hotel.com> and <belmond-hotels.com>, are both registered through a Privacy service with NameCheap;
- They were registered one day apart from the other through the Registrar NameCheap;
- The connection between the disputed domain names is reinforced by the similarity in composition with the only differing aspect between the disputed domain names is the use or omission of the letter "s";
- The Complainant finally highlights the implausibility of a situation where separate registrants, having no connection with each other would register domain names targeting the same trademark;
- registered a day apart and similar composition in the second level, are not commonly held. The only material difference in the disputed domain names is the letter "s".

As to the substantive parts of the Complaint, the Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain name <belmond-hotel.com> is confusingly similar to its BELMOND mark since it contains this mark, a hyphen and the generic, descriptive term "hotel"; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the

Respondent registered and is using the disputed domain name in bad faith, since it has been used as part of an identity theft and fraud scheme, where the Respondent has used the email address “[...]@belmond-hotel.com” to send emails impersonating the Complainant.

Regarding the disputed domain name <belmond-hotels.com>, the Complainant contends that the disputed domain name is confusingly similar to its BELMOND mark since it contains this mark, a hyphen and the generic, descriptive term “hotels”; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith, since and it has been used for a website that contained PPC links to third party websites.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

Regarding the Complainant’s request to consolidate the Complaint against the two Respondents, it is stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), that where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. The second paragraph of the section then lists a number of factors that panels have considered in previous decisions.

In the present case, the disputed domain names both incorporate the mark BELMOND, and they are almost identical. Furthermore, the disputed domain names were registered with the same Registrar with one day apart, just as the Respondents had the opportunity but did not respond substantively to the Complaint.

Accordingly, applying the principles outlined in section 4.11.2 in the [WIPO Overview 3.0](#) to the facts in this case, the Panel finds that the Complainant has established more likely than not that the disputed domain names are subject to common control. The Panel further concludes in the circumstances of this case that consolidation would be fair and equitable to all parties and procedurally efficient, and the Panel will therefore allow the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules.

A. Identical or Confusingly Similar

It is well 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has demonstrated to have registered rights to the BELMOND trademark.

The Panel finds that the mark is clearly recognizable within the disputed domain names, and that the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel thus finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted the Complainant’s *prima facie* showing and have not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise. Rather on the contrary since the disputed domain names have been used as part of an identity theft and fraud scheme and for a website that contained PPC links to third party websites respectively.

Moreover, the composition of the disputed domain names carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Given the circumstances of the case, in particular the distinctive character of the Complainant’s trademark BELMOND and its exact replication in the disputed domain names, the Panel finds that the Respondents registered the inherently misleading disputed domain names with prior knowledge of the Complainant and the Complainant’s trademark.

As mentioned above the disputed domain names have been used by the Respondents as part of an identity theft and fraud scheme and for a website that contained PPC links to third party websites respectively. Both types of use constitute use in bad faith under the Policy. [WIPO Overview 3.0](#), sections 3.4 and 3.5.

Having reviewed the record, the Panel finds the Respondents’ registration and use of the disputed domain names constitutes bad faith under the Policy. Accordingly, the third element of the Policy has also been established.

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 names <belmond-hotel.com> and <belmond-hotels.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: October 16, 2023