

ADMINISTRATIVE PANEL DECISION

Belmond Management Limited v. vesei kateriko suiro
Case No. D2023-4501

1. The Parties

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

The Respondent is vesei kateriko suiro, Afghanistan.

2. The Domain Name and Registrar

The disputed domain name <belmond-reidspalace.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 October 30, 2023. On October 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 November 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 November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 11, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on December 20, 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 in this proceeding is Belmond Management Limited, an internationally renowned owner and operator of luxury hotels, trains, river cruises and safari lodges.

The Complainant owns several trademarks corresponding and/or including the BELMOND sign.

The Complainant is, *inter alia*, the owner of:

- United States of America trademark registration number 4832479 for the BELMOND (device) trademark registered on October 13, 2015;
- European Union Trademark registration number 012293411 for the BELMOND (device) trademark registered on November 8, 2014;
- Swiss trademark registration number 654784 for the BELMOND (device) trademark registered on February 13, 2014.

In addition, the Complainant is the holder of several domain names corresponding and/or including the BELMOND sign such as: <belmond.com> (registered on March 5, 1998), <belmondboutique> (registered on February 11, 2014), <belmondcareers.com>, <belmondclub.com>, <belmondevents.com>, <belmongifts.com> and <belmondpress.com>.

The Complainant also hosts property-specific web pages within its main website, including a dedicated page for “Reid’s Palace, A Belmond Hotel”, Madeira.

Moreover, the Complainant has further registered its BELMOND trademark in combination with its relevant territories as domain names, including the following:

<belmondbrazil.com>
<belmonddublin.com>
<belmondedinburgh.com>
<belmonditaly.com>
<belmondlondon.com>
<belmondvenice.com>

The Complainant has also established a strong social media presence and uses its BELMOND trademark to promote its goods and services under this name, in particular on Facebook, Twitter and Instagram.

The disputed domain name was registered on June 7, 2023.

The disputed domain name currently, as well as at the time of filing the Complaint, hosts a website that features an ICANN verification page.

The Complainant’s representatives sent a cease and desist letter to the Respondent, which remains unanswered.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the Respondent has added the descriptive term "reids palace" to the Complainant's BELMOND trademark, and that, Reid's Palace being the name of the Complainant's Reid's Palace hotel, located in Portugal, the addition of this term to the Complainant's BELMOND trademark is highly likely to heighten confusion in the minds of internet users. In addition, the Complainant affirms that where the disputed domain name is comprised of the Complainant's BELMOND trademark in conjunction with a term that directly relates to the Complainant's services, there is no plausible good-faith reason or logic for the Respondent to have registered the disputed domain name. Rather, it is indicative of an intention to hold the disputed domain name "for some future active use in a way which would be competitive with or otherwise detrimental to Complainant." In this sense the Complainant quotes previous UDRP decision *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#).

B. Respondent

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

6. Discussion and Findings

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 a trademark 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.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

Although the addition of other terms, here a hyphen and "*reidspalace*", may bear on the assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the composition of the disputed domain name reproducing the Complainant’s BELMOND trademark with the addition of the term “reids palace”, which corresponds to the name of one of the Complainant’s hotels, carries a risk of implied affiliation.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent was aware of the Complainant’s trademark registrations and rights to the BELMOND trademark when it registered the disputed domain name.

The disputed domain name was registered several years after the Complainant’s trademark was registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, and considering the composition of the disputed domain name, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant, or the Complainant’s trademarks, when registering the disputed domain name.

In fact, “Belmond” is not a common or descriptive term, but a renowned trademark in the luxury hotels field. The fact that the disputed domain name combines the Complainant’s BELMOND trademark with the term “reids palace”, which corresponds to the name of one of the Complainant’s hotel, is therefore a clear inference that the Respondent was aware of the Complainant’s trademark and activity when registering the disputed domain name.

The disputed domain name reproduces, without any authorization or approval, the Complainant's registered BELMOND trademark.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the BELMOND trademark.

The bad faith registration and use of the disputed domain name are also affirmed by the fact that the Respondent did not respond to the Complainant's cease and desist letter, nor has it denied the assertions of bad faith made by the Complainant in this proceeding.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <belmond-reidspalace.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: January 3, 2024