

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Prince Toc
Case No. D2023-4653

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, represented by Constance Dumortier, Belgium.

The Respondent is Prince Toc, Burkina Faso.

2. The Domain Name and Registrar

The disputed domain name <bel-fius.com> is registered with Instra Corporation Pty Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 9, 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 November 10, 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 15, 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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 8, 2023.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on December 13, 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 state-owned bank and financial services provider with over 650 agencies and over 5,000 employees.

The Complainant owns some trademarks consisting in all or in part of the term “belfius”, including but not limited to:

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

The Complainant is the registrant of the domain name <belfius.be> created on January 23, 2012, and which resolves to its official website where it offers banking and insurance services. The Complainant is also the registrant of the domain name <belfius.com> created on November 8, 2019, and which redirects to a website intended for institutional partners and journalists, as well as many other domain names that include the term “belfius” and direct to its official website.

The disputed domain name was registered by the Respondent on March 29, 2023, and does not resolve to an active website.

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 the following.

Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the BELFIUS trademark are confusingly similar.

According to the Complainant’s contentions, the disputed domain name is made of the complete incorporation of Complainant’s BELFIUS trademark, slightly misspelled by introducing a hyphen between “bel” and “fius” elements and the generic Top-Level-Domain (“gTLD”) “.com”, so as to create a likelihood of confusion with Complainant’s BELFIUS trademark.

No rights or legitimate Interests

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registration for the BELFIUS trademark. The Complainant does not carry out any activity for, nor have any business with, the Respondent.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name.

Passive holding of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The Respondent, therefore, has no rights or legitimate interests in the disputed domain name.

Registered and used in bad faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith.

The Complainant asserts that the Respondent either knows or should have known of the Complainant's trademark or else exercised the kind of willful blindness that supports a finding of bad faith.

The Complainant contends that the passive holding or non-use of the disputed domain name is in the present case supports the finding of bad faith, since the disputed domain name mainly consists of the Complainant's BELFIUS trademark; concealing the identity and the provision of incomplete contact details of the Respondent and the impossibility to conceive any plausible actual or contemplated active use of the disputed domain name by the Respondent also support the finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (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.

According to section 1.1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the term “trademark or service mark” as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the BELFIUS trademark enjoys protection under national trademark registrations.

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 disputed domain name consists of the elements “bel” and “fius”, which correspond to the Complainant’s BELFIUS trademark, divided by a hyphen and followed by the gTLD “.com”.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term may however bear on assessment of the second and third elements.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant’s BELFIUS trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the BELFIUS trademark in which the Complainant has rights.

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.

Based on the Complainant’s contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its BELFIUS trademark.

The Complainant's trademark registrations for the BELFIUS trademark predate the Respondent's registration of the disputed domain name.

Based on the case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The disputed domain name does not resolve to an active website. Prior UDRP panels have found that the passive holding of a disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. See, by way of example, *Skyscanner Limited v. WhoisGuard Protected, WhoisGuard, Inc. / petrov petya*, WIPO Case No. [DCC2020-0003](#); *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#). "The passive holding of the disputed domain name does not amount to use or preparations to use it in connection with a *bona fide* offering of goods and services. Nor is there any evidence which indicates that the Respondent is commonly known by the disputed domain name. Nor does a passive holding of the disputed domain name comprise a legitimate noncommercial or fair use of it.")

The Panel agrees and holds the passive holding of the disputed domain name by the Respondent in this case as evidence that the Respondent has not registered the disputed domain name in connection with any *bona fide* offering of goods or services.

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.

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.

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.

The Complainant has produced evidence showing that it owns registrations for the BELFIUS trademark, of which registration dates significantly precede the registration date of the disputed domain name.

In addition, the Complainant has credibly submitted that over the years it has developed substantial goodwill in the BELFIUS trademark.

Taking the above facts into consideration, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)..

Finally, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name.

In light of the aforesaid and applying the above-referenced factors, the Panel establishes that the Respondent registered and is using the disputed domain name in bad faith.

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 <bel-fius.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: January 12, 2024