

ADMINISTRATIVE PANEL DECISION

Belfius Bank SA / Belfius Bank NV v. Marc Martens

Case No. D2023-4892

1. The Parties

The Complainant is Belfius Bank SA / Belfius Bank NV, Belgium, internally represented.

The Respondent is Marc Martens, Belgium.

2. The Domain Names and Registrar

The disputed domain names <belfiusnumerique.com>, <cryptobelfius.com> are registered with Combell NV (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 24, 2023. On November 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 11, 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 (Unavailable) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 13, 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 December 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 December 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on January 29, 2024. 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 bank and financial services provider with an established reputation in Belgium and beyond. The Complainant has more than 5.000 employees and over 650 agencies and is 100% government owned. The Complainant's BELFIUS trade mark is also known outside Belgium as it sponsors national sports teams.

The Complainant owns numerous registered trade marks incorporating iterations of BELFIUS, including European Union trade mark registration No. 010581205 BELFIUS, filed on January 23, 2012 and registered on May 24, 2012; Benelux registration no. 914650 BELFIUS, filed on January 23, 2012 and registered on May 10, 2012; and Benelux registration no. 915963 and 915962 BELFIUS (fig.), filed on March 2, 2012 and registered on June 11, 2012¹.D

The Complainant also owns and operates the domains <belfius.be> and <belfius.com>.

Both disputed domain names were registered on November 3, 2023. The disputed domain names do not resolve to active web pages featuring substantive content.

5. Parties' Contentions

A. Complainant

The Complainant submits that panels have found that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. It submits also that the addition of the terms "crypto" and "numerique" do not lessen the inevitable confusion between the disputed domain names and the Complainant's BELFIUS trade mark, as internet users are likely to assume that any linked website offers some kind of services supplied by the Complainant, which obviously is not the case.

The Complainant contends that the Respondent lacks any rights or legitimate interests in respect of the disputed domain names. The trade mark registrations for BELFIUS predate the Respondent's registration of the disputed domain names and the Complainant says that it is in no way associated with the Respondent. The Complainant points out that it has not licensed, approved or in any way consented to the Respondent's registration and use of the BELFIUS trade mark, and that the latter has no trade mark rights on BELFIUS and does not seem to carry out any activity. For that reason, the Complainant contends, there is no reason why the Respondent should adopt the particular word combinations found in the disputed domain names.

The Complainant also contends that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names. It is not making any use of them in connection with an active website nor made demonstrable preparations to use the disputed domain names. The Complainant contends that in this regard, it should be noted that the passive holding or non-use of domain names is, in appropriate

¹ The Complainant provided as annexes expired trade mark certificates for BELFIUS which did not reflect that the trade marks were renewed. The Panel exercised its power to conduct certain independent, impartial, and limited searches designed to assess the merits of the case to lead to a decision (WIPO overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.8). In this regard, the Panel verified whether the Complainant's trade marks were renewed and active by performing a simple search in the database of the European Union Intellectual Property Office ("EUIPO") and in the database of the Benelux Office for Intellectual Property ("BOIP"). This search showed that the Complainant's trade marks for BELFIUS have been renewed and are active.

circumstances, evidence of a lack of rights or legitimate interests. Further, the Complainant asserts that its European Union trade mark is registered since 2012, whereas the disputed domain names were registered in November 2023. The Respondent thus either knows or should have known of the Complainant's trade mark or else the Complainant exercised the kind of willful blindness that numerous panels have held support a finding of bad faith. The Complainant contends that if the Respondent had conducted some good faith searches before registering the disputed domain names, it would have readily found reference to the Complainant and appreciated the resulting likelihood of confusion.

The Complainant points out that the Respondent registered the disputed domain names in November 2023 and seems to have done nothing lawful with the website to which they resolve, as no other content is displayed on the website. The Complaint asserts that such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy.

The Complainant contends that as the Respondent does not own any rights and does not have any legal interest in the domain names, it cannot pretend that it will use them in good faith. There is no evidence indicating that the disputed domain names are used for any type of legitimate business or service, the Complainant says. The concealment of the Respondent's identity is also an indication of bad faith, as it was, according to the Complainant, not inspired by a legitimate need to protect Respondent's identity but solely to make it difficult for the Complainant to protect its trade mark rights. The Respondent's provision of incomplete contact details and its inability to be traced, renders an effective trade mark protection unnecessarily difficult, the Complainant says. Furthermore, the Respondent did not reply to the cease-and-desist notices sent by the Complainant, something that previous panels have found supports an inference of bad faith.

Finally, the Complainant contends that the passive holding or non-use of the disputed domain names supports a finding of bad faith in the present matter, because the latter mainly consist of the Complainant's registered BELFIUS trade mark; the Respondent supplied only incomplete contact details; and it is impossible to conceive of any plausible actual or contemplated active use of the disputed domain names by the Respondent that would be in good faith.

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

B. Respondent

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

6. Discussion and Findings

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 shown rights in respect of the BELFIUS trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the mark is reproduced within the disputed domain names. The terms "crypto" and "numerique" have been added to the BELFIUS trade mark, but this does not detract from the fact that the BELFIUS trade mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 by reference to 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 names. The Respondent has not rebutted the Complainant’s prima facie showing and has not advanced any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise. The Complainant did not authorize the Respondent to use the BELFIUS trade mark in any manner, there is no indication the Respondent is known by that term or the disputed domain name, or has acquired legitimate trade mark rights in it, and no use has been made of the disputed domain name that could sustain an argument that the Respondent has rights or legitimate interests.

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.

The evidence on record does not reflect any active use of the disputed domain name. Panels have found that the non-use of a domain name (including it resolving to a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. The BELFIUS trademark is highly distinctive and its conjunction with the terms “crypto” and “numerique”, relevant to the Complainant’s business, indicates that the Respondent is well aware of the mark, the beneficiary of the mark and its use in relation to financial services, inter alia online. In any case a simple trade mark register or online search would have revealed the identity and rights of the Complainant instantly. The Panel also notes the Respondent’s failure to submit a response to the Complainant’s allegations.

Having reviewed the available record, the Panel thus finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. In the particular circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

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 names <belfiusnumerique.com> and <cryptobelfius.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: February 12, 2024