

## **ADMINISTRATIVE PANEL DECISION**

Belfius Bank SA / Belfius Bank NV v. mach dis  
Case No. D2024-0331

### **1. The Parties**

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

The Respondent is mach dis, United States of America.

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

The disputed domain name <belfiusonline.org> is registered with Network Solutions, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 25, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2024, 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 (dis, mach) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 12, 2024, providing the following registrant and contact information disclosed by the Registrar "Mach Dis" and inviting the Complainant to submit an amendment to the Complaint.

On February 13, 2024, the Complainant responded by email to the aforementioned invitation from the Center, noting that the above information was already included in the initial Complaint.

The Center verified that the 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 February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 11, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on March 13, 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 government-owned Belgian bank and financial services provider with over 650 agencies and over 5,000 employees.

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

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

The Complainant also owns over 200 domain names featuring BELFIUS trademark, including the domain name <belfius.be>, which resolves to its official website where it offers banking and insurance services, and the domain name <belfius.com>, which resolves to a website intended for institutional partners and journalists.

The disputed domain name was registered on December 10, 2023, and resolves to an inactive webpage, as shown by the evidence submitted with the Complaint.

On December 23, 2023, and on January 18 2024, the Complainant sent warning letters to the Respondent, to draw attention upon the breach of the Complainant’s trademark rights and to obtain the transfer or the discontinuation of any use of the disputed domain name, but the Respondent did not respond.

#### **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 disputed domain name is confusingly similar to the Complainant trademark BELFIUS, since it consists of the Complainant’s exact mark combined with the non-distinctive generic term “online”.
- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, (ii) the Respondent is not commonly known by the disputed domain name, and (iii) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name in connection with an active website or even indicating demonstrable preparation to use the disputed domain name.
- The Complainant has established a substantial presence on the Internet. In this regard, the Complainant notes that in this age where the Internet is widely used the well-known status of a trademark is not restricted to the physical geographic boundaries determined by where the trademark holder is based,

and if the Respondent had conducted some good faith searches it would have found reference to the Complainant.

- The disputed domain name was registered and is being used in bad faith. The structure of the disputed domain name shows that the Respondent registered it having in mind the Complainant's BELFIUS mark, and reflects the Respondent's clear intention to create an association with and take advantage of the Complainant's widely known trademark. Passive holding, which is the case here, demonstrates bad faith.
- The Respondent's failure to reply to the Complainant's cease and desist letters further supports an inference of bad faith.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

## **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 to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, 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; 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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **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.

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 that the entirety of the mark is reproduced and 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. The addition of the generic Top-Level Domain such as ".org" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms here, "online", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests to the Respondent. On the contrary, as Complainant demonstrated, the disputed domain name resolves to an inactive webpage.

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.

In the present case, the Panel notes that the Complainant (i) is the owner of the BELFIUS trademark which is distinctive and whose registration and use largely predates the registration of the disputed domain name and (ii) has established a substantial presence on the Internet. Therefore, the Panel can validly infer that the Respondent had or should have had knowledge of the Complainant’s trademark and business at the time when it registered the disputed domain name.

Prior panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term or comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

The Panel further notes that the disputed domain name incorporates the Complainant’s trademark in its entirety with the addition of generic term “online”. This suggests that the disputed domain name was registered in bad faith with a deliberate intent to create an impression of an association with the Complainant, and to mislead Internet users into believing the disputed domain name as an official domain name of the Complainant, due to the fact that the Complainant has similar domain names, notably <belfius.be> which resolves to the Complainant’s official website where it offers banking and insurance services, and <belfius.com> redirecting to a website intended for institutional partners and journalists.

As to bad faith use, the evidence submitted with the Complaint shows that the disputed domain name resolves to an inactive webpage.

Panels have found that the non-use of a domain name 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 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 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 <belfiusonline.org> be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist

Date: March 27, 2024