

ADMINISTRATIVE PANEL DECISION

B&B HOTELS v. Krasimir Georgiev, TSENTRAL FORUM OOD
Case No. D2024-1234

1. The Parties

The Complainant is B&B HOTELS, France, represented by Fiducial Legal By Lamy, France.

The Respondent is Krasimir Georgiev, TSENTRAL FORUM OOD, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <bb-aparthotel.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2024. On March 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 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 (To the owner of the domain name: bb-aparthotel.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2024, 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 March 29, 2024.

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 April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on May 10, 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 French company, incorporated in 1990, which offers hotel, restaurant, accommodation, and associated booking services. It operates 748 hotels worldwide and its turnover in 2021 was in excess of EUR 220 million. The Complainant trades as B&B HOTELS and a number of variants, including BBHOTEL, BB-HOTEL and HOTELBB (collectively the “BB Marks”), and it has registered trademarks in many countries to protect these trading styles. These include, by way of example only, French Trade Mark, registration number 3182313, for BB-HOTEL, registered on February 14, 2003 in class 43. The Complainant also owns many domain names which reflect its trading styles including <bb-hotels.com>, which redirects to a booking website for the Complainant’s hotels and <bb-hotel.eu>.

The disputed domain name was registered on June 19, 2023. It resolves to a webpage containing, in Bulgarian characters, a message, the English translation of which is: “Expect skopo! This domain is registered for a customer of SuperHosting BG”.

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 identical or confusingly similar to the Complainant’s BB Marks, in particular its BB-HOTEL mark, from which it differs only by the addition of the descriptive term “apart”, which will be perceived as an abbreviation for “apartment”, a type of accommodation. The incorporation within the disputed domain name of the entirety of the Complainant’s mark is sufficient to establish confusing similarity with the Complainant’s mark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has never been known by the name “bb-aparthotel” and he has never offered goods or services under that name. The Complainant has not licensed or authorized the Respondent in any way to use any of its BB Marks or to register or use the disputed domain name. Nor has the Respondent used, or made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods and services as he is not, in fact, making any use of the disputed domain name; and
- the disputed domain name was registered and is being used in bad faith. The Complainant’s BB Marks are well-known and were in widespread use long before the date of registration of the disputed domain name, so it is likely that the Respondent was aware of the Complainant’s marks as at the date of registration of the disputed domain name. The Respondent clearly registered the disputed domain name without any specific intention to use it. It is evident that Internet users can be attracted to the disputed domain name whilst trying to reach the websites to which the Complainant’s famous domain names resolve, considering the identity, or high degree of similarity, between the disputed domain name and the Complainant’s BB Marks.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that a complainant proves each of the following three elements in relation to a domain name in order to succeed in its complaint:

- (i) the 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 with respect to the domain name; and
- (iii) the 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 trade mark and the disputed domain name; see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Based on the available record, the Panel finds the Complainant has shown rights in respect of its BB Marks, in particular its BB-HOTEL mark, for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of the disputed domain name, is usually disregarded when assessing confusing similarity. Section 1.7 of the [WIPO Overview 3.0](#) explains that; "[...] 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". The Complainant's BB-HOTEL mark is reproduced in its entirety within the disputed domain name, albeit the term "apart" is interposed between "bb" and "-hotel". This additional element does not prevent the Complainant's mark from being recognizable within the disputed domain name.

For the above reasons, based on the available record, the Panel finds that 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 which a respondent may demonstrate rights or legitimate interests in a domain name. Whilst 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 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; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has he made demonstrable preparations to use, the disputed domain name, or a name corresponding to the disputed domain name, in connection with a bona fide offering of goods or services. Non-use of the disputed domain name, which encompasses use of it simply to resolve to a holding page of the type described above, self-evidently, does not comprise use in connection with a bona fide offering of goods and services; see, for example *Meta Platforms, Inc. v. Gregory Mogged*, WIPO Case No. [D2023-0098](#);
- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [WIPO Overview 3.0](#), section 2.4;
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For the above reasons, 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 combination of the letters “BB” and the term “HOTEL” renders the Complainant’s BB-HOTEL mark distinctive in the context of the Policy, which has been used for a long period of time before the registration of the disputed domain name. The inclusion within the disputed domain name of the Complainant’s mark, albeit with its two component parts divided by the term “apart”, which is likely to be understood to refer to “apartments”, suggests an awareness by the Respondent of the Complainant’s BB-HOTEL mark as at the date of registration of the disputed domain name and an intention on his part to take unfair advantage of it in some manner. The resemblance between the Complainant’s domain name and the disputed domain name, further supports the Panel’s conclusion. Neither the fact that the Respondent does not appear, at present, to be deriving any direct advantage from his registration of the disputed domain name nor the fact that his registration of it does not fit clearly within any of the non-exclusive circumstances evidencing bad faith registration and use set out at paragraph 4(b) of the Policy prevents the registration of the disputed domain name from being considered to be in bad faith; see section 3.1 of the [WIPO Overview 3.0](#) and *MOTUL v. Admon, Sani Cermaic*, WIPO Case No. [D2019-1145](#).

Whilst the disputed domain name resolves only to a holding page, from the inception of the UDRP, panelists have found that the non-use of a domain name, which includes resolution to a blank or “coming soon” page, would not prevent a finding of bad faith under the doctrine of passive holding; see the [WIPO Overview 3.0](#), section 3.3. 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, (iii) the respondent’s concealing its identity or use of false contact details and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Complainant has provided evidence which establishes, for the purpose of the Policy, that its BB-HOTEL trademark is distinctive in the context of the services for which it is registered; (ii) the Respondent has not provided a response to the Complaint nor is there any evidence of actual or contemplated good faith use of the disputed domain name; (iii) the Respondent has sought to conceal his identity by his use of a privacy service; and (iv) there is no evidence of a good faith use to which the disputed domain name can be put by the Respondent. 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. See, for example, *OSRAM GmbH v. Igor Ostapenko*, WIPO Case No. [D2013-0899](#).

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain name has been in bad faith.

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 <bb-aparthotel.com> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: May 24, 2024