

ADMINISTRATIVE PANEL DECISION

B&B HOTELS v. Minata Afrina, My Store

Case No. D2024-1252

1. The Parties

The Complainant is B&B HOTELS, France, represented by Fiducial, Inc., France.

The Respondent is Minata Afrina, My Store, Japan.

2. The Domain Name and Registrar

The disputed domain name <hotel-b.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2024. On March 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 25, 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 (Contact Privacy Inc. Customer 0168989412) 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 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 23, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on April 26, 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 that has been providing services of hotels, restaurants, temporary accommodation and related booking services since 1990. It operates more than 700 hotels worldwide (Annex 5 to the Complaint).

The Complainant is the owner of various registered trademarks that consist of or include the elements “hotel” and “bb”, such as HOTELBB. Among various others, the Complainant is the registered owner of the French trademark registration No. 3182312, registered on February 14, 2003, for HOTELBB, covering protection for hotel services as protected in class 43 (Annexes 7.1 and 7.2 to the Complaint).

In addition, the Complainant further holds and operates the domain name <hotelbb.com> (Annexes 6.1 and 6.2 to the Complaint).

The disputed domain name was registered on October 17, 2023.

The Respondent is reportedly located in Japan.

Based on the case file, the disputed domain name has yet not been actively used (Annex 1 to the Complaint).

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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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 HOTELBB trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. As stated at section 1.9 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, misspellings do not prevent a finding of confusing similarity. In the present case, the Panel notes that the disputed domain name incorporates an apparent misspelling of the Complainant's HOTELBB trademark by simply adding a hyphen and omitting a "b" from the Complainant's HOTELBB trademark, which in view of the Panel, still makes the Complainant's HOTELBB trademark 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 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.

In the absence of a response, and as the disputed domain name has apparently not been actively used so far, there is particularly no evidence or even indication in the case record that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to be engaged in a legitimate noncommercial or fair use of the dispute domain name. Furthermore, there is no indication that the Respondent might be commonly known by the disputed domain name. For completeness, the Panel has conducted a Google search of the named registrant and its street address, and there is nothing to indicate any sort of hotel offering or otherwise indicate any potentially legitimate connection on the part of the Respondent to the disputed domain name.

The Panel finds that 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 Complainant has widely used its HOTELBB trademark in commerce well before the registration of the disputed domain name in October 2023. Also, the Respondent has not provided any explanation for why it registered the disputed domain name. This makes it more likely than not that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. This assessment is further supported by the typosquatting nature of the disputed domain name.

As regards the use in bad faith, the Panel notes that the disputed domain name is passively held.

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 reputation of the Complainant and its trademarks, 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.

Furthermore, the Panel accepts the failure of the Respondent to submit a response to the Complainant's contentions as an additional indication for bad faith registration and use. The Panel is convinced that, if the Respondent had legitimate purposes in registering and using the disputed domain name, it would have probably responded.

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 <hotel-b.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: May 10, 2024