

## ADMINISTRATIVE PANEL DECISION

B&B Hotels v. 吕福立 (Fuli Lv)

Case No. D2024-1521

### 1. The Parties

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

The Respondent is 吕福立 (Fuli Lv), China.

### 2. The Domain Name and Registrar

The disputed domain name <hotel-bb.info> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 10, 2024. On April 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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: hotel-bb.info) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 in English on April 17, 2024.

On April 15, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On April 16, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on April 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 14, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on May 27, 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, a French company incorporated in 1990, operates and provides hotel, restaurant, temporary accommodation, and booking services under the brand name B&B HOTELS. The Complainant has more than 748 hotels in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic, and Brazil. The Complainant's hotel chain had a turnover of more than EUR 220 million in 2021.

The Complainant has numerous trade mark registrations which comprise the elements "BB" and "HOTEL" in different combinations. These trade marks include the following:

- European Union Trade Mark Registration No. 4767323 for B&B HOTELS (Logo), registered on December 12, 2006;
- French Trade Mark Registration No. 3182313 for BB-HOTEL, registered on August 29, 2002; and
- French Trade Mark Registration No. 3182311 for HOTELBB, registered on August 29, 2002.

(individually and collectively, the "Trade Mark").

The Complainant owns a number of domain names which comprise the Trade Mark including <hotel-bb.com>, <hotel-bb.eu>, <hotel-bb.fr>, <hotel-bb.net>, and <bb-hotel.info>. All these domain names redirect to the Complainant's main corporate website at "www.hotel-bb.com", which shows the Complainant's hotel and restaurant activities and offers online reservation services.

The Respondent who appears to be based in China registered the disputed domain name on March 6, 2024. The disputed domain name is inactive. The Complainant's representatives sent a cease-and-desist letter to the Registrar on March 15, 2024 with follow up emails and received no response.

#### **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 Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for the following main reasons:

- the Complainant is a French company;
- all correspondence with the Registrar prior to the filing of the Complaint was in English;
- the Registration Agreement of the Registrar is available in English; and
- the Respondent was previously involved in another UDRP case where English was the language of the proceeding (*Capital One Financial Corporation v. 吕福立 (Fuli Lv)*, WIPO Case No. [D2022-3647](#)).

The Respondent has not challenged the Complainant's language request and despite being notified of the case in both languages in fact has failed to file a response in either English or Chinese.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for identity or confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's Trade Mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the hyphen symbol between and the inversion of the terms "hotel" and "bb" in the disputed domain name may bear on assessment of the second and third elements, the Panel finds the addition of such a symbol and the inversion in the terms do not prevent a finding of confusing similarity between the disputed domain name and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **C. 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.

While 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 often 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. [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 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.

Moreover, the nature of the disputed domain name, which is not only confusingly similar to the Trade Mark but also identical to the second level of the Complainant’s own domain name <hotel-bb.com> is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **D. 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 disputed domain name fully incorporates the Trade Mark and in fact is identical to the Complainant’s own domain name on the second level which includes the hyphen symbol between “hotel” and “bb” with the only difference being the Top-Level Domains, indicating that the Respondent had actual knowledge of and was targeting the Complainant and the Trade Mark when registering the disputed domain name. The Panel also notes that the disputed domain name is inactive. 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 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. [WIPO Overview 3.0](#), section 3.3. Moreover, the nature of the disputed domain name, which is not only confusingly similar to the Trade Mark but also identical to the second level of the Complainant’s own domain name <hotel-bb.com> is an indication of bad faith on the part of the Respondent.

Having reviewed the available record, the Panel notes the reputation of the Trade Mark, the composition of the disputed domain name, the fact that the Respondent has been on the wrong side of another UDRP case involving another brand owner (*Capital One Financial Corporation v. 吕福立 (Fuli Lv)*, supra) and lack of a response from the Respondent, 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.

## 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-bb.info> be transferred to the Complainant.

*/Karen Fong/*

**Karen Fong**

Sole Panelist

Date: June 20, 2024