

## ADMINISTRATIVE PANEL DECISION

BravoNext SA, BLUE SAS v. en\_df12d, dxcdx,lcd  
Case No. D2024-2636

### 1. The Parties

Complainants are BravoNext SA, Switzerland (“Complainant No. 1”), BLUE SAS, France (“Complainant No. 2”) (together “Complainants”), represented by Bird & Bird Società tra Avvocati s.r.l., Italy.

Respondents are en\_df12d, United Kingdom (“Respondent No. 1”), dxcdx,lcd, France (“Respondent No. 2”) (together “Respondents”).

### 2. The Domain Names and Registrar

The disputed domain names <best-medialastminute.com> (“disputed domain name No. 1”) and <platform-onlinehotelscan.com> (“disputed domain name No. 2”) are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2024. On June 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 1, 2024, 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 (Redacted for privacy) and contact information in the Complaint.

The Center sent an email communication to Complainants on July 3, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainants to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainants filed an amended Complaint on July 8, 2024. On July 15, 2024, the Center sent an email regarding the consolidation of multiple respondents to the Parties.

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 Respondents of the Complaint, and the proceedings commenced on July 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 5, 2024. Respondents did not submit any response. Accordingly, the Center notified Respondents' default on August 8, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on August 12, 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**

Complainant No. 1 is a company organized under the laws of Switzerland, while Complainant No. 2 is a company organized under the laws of France. Complainants both provide services in connection with travels and accommodations, belong to the same lastminute.com group of companies, and are fully owned by the same lastminute.com N.V. parent company.

Complainants have provided evidence that Complainant No. 1 is the registered owner of various trademarks relating to the LASTMINUTE brand, including, but not limited to, the following:

- Word mark LASTMINUTE, European Union Intellectual Property Office ("EUIPO"), registration number: 007200645, registration date: April 26, 2010, status: active.

Moreover, Complainants have demonstrated that Complainant No. 1 owns the domain name <lastminute.com> which resolves to Complainant No. 1's official website at "www.lastminute.com", used to operate the booking platform "lastminute.com", offering a comprehensive range of hotels, flights, spa days, city breaks, etc.

Besides, Complainants have provided evidence that Complainant No. 2 is the registered owner of various trademarks relating to the HOTELSCAN brand, including, but not limited to, the following:

- Word mark HOTELSCAN, EUIPO, registration number: 1115604, registration date: February 9, 2012, status: active.

Also, Complainants have demonstrated that Complainant No. 2 owns the domain name <hotelscan.com> through which it operates a meta-search engine for hotels and all types of accommodations at "www.hotelscan.com", including the comparing of prices.

Respondents, according to the disclosed Whois information for the disputed domain names, are located in the United Kingdom and in France, respectively. The disputed domain name No. 1 was registered on December 28, 2023, while the disputed domain name No. 2 was registered on January 27, 2024. By the time of the rendering of this decision, both disputed domain names do not resolve to any active content on the Internet. Complainants, however, have demonstrated that, at some point before the filing of the Complaint, both disputed domain names resolved to websites with layout and content almost identical to Complainants' official websites, thereby also incorporating Complainants' official LASTMINUTE and HOTELSCAN trademarks and logos without any authorization to do so.

Complainants request that the disputed domain name No.1 be transferred to Complainant No. 1, while the disputed domain name No. 2 be transferred to Complainant No. 2.

## **5. Parties' Contentions**

### **A. Complainants**

Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names. Notably, Complainants contend that they started their LASTMINUTE business already back in 1998 and their HOTELSCAN business back in 2012, and that both trademarks are meanwhile renowned throughout the world in relation to travel and accommodation services.

Complainants submit that the disputed domain names are confusingly similar to Complainants' LASTMINUTE and HOTELSCAN trademarks, as they fully incorporate those latter trademarks which, in turn, all predate the registration of the disputed domain names. Moreover, Complainants assert that Respondents have no rights or legitimate interests in respect of the disputed domain names since (1) Complainants have never authorized, or somehow given their consent to anyone to register or use the disputed domain names, (2) the disputed domain names entirely incorporate Complainants' LASTMINUTE and HOTELSCAN trademarks and are used in connection with websites that display those trademarks without authorization, including Complainants' official trademark logos, and, therefore (3) the disputed domain names are used to impersonate Complainants and such use is neither a bona fide offering of goods and services, nor a legitimate noncommercial or fair use and, therefore, cannot confer any rights or legitimate interests in the disputed domain names. Finally, Complainants argue that Respondents have registered and are using the disputed domain names in bad faith since (1) Complainants' LASTMINUTE and HOTELSCAN trademarks not only predate the registration of the disputed domain names, but are renowned, (2) both disputed domain names are used in connection with websites that invite users to provide their phone numbers in order to create an account and log in, thus allowing Respondents to obtain revenues and other unfair advantages, and (3) both disputed domain names, therefore, have obviously been conceived to capitalize on Complainants' LASTMINUTE and HOTELSCAN trademarks and to impersonate Complainants in order to mislead the visitors into believing that the disputed domain names are registered from or affiliated to Complainants' websites and businesses under their renowned trademarks.

### **B. Respondent**

Respondents did not reply to Complainants' contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondents' default in the case at hand does not automatically result in a decision in favor of Complainants, however, paragraph 5(f) of the Rules provides that if Respondents do not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondents' failure to submit a Response as it considers appropriate.

### **A. Consolidation: Multitude of Complainants and Respondents**

As regards the multitude of Complainants, given that they belong to the same lastminute.com group of companies and are both fully owned by the same lastminute.com N.V. parent company, Complainants obviously have a specific common grievance against Respondents. Therefore, it is appropriate in the case at hand and in line with the UDRP panelists' majority view to accept this Complaint filed by multiple complainants (see [WIPO Overview 3.0](#)), section 4.11.1).

As regards the multitude of Respondents and disputed domain names belonging to them, the Panel notes that (1) both disputed domain names have been registered with the same Registrar in a close temporal connection, and (2) resolved at some point in the past to websites with at least almost identical layout and content, thereby incorporating and misusing Complainants' LASTMINUTE and HOTELSCAN trademarks. Therefore, it is reasonable to argue that the disputed domain names are subject to some kind of common control which is why it is also fair and equitable to all Parties that this Complaint is consolidated against multiple Respondents at the same time (see [WIPO Overview 3.0](#), section 4.11.2).

Having said so, the Panel comes to the following finding:

### **B. Identical or Confusingly Similar**

First, 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 Complainants' LASTMINUTE and HOTELSCAN trademarks and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Complainants have shown rights in respect of their LASTMINUTE and HOTELSCAN trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Also, the entirety of the LASTMINUTE trademark is reproduced within the disputed domain name No. 1, while the entirety of the HOTELSCAN trademark is reproduced within the disputed domain name No. 2, simply added by other terms such as "best", "media", "online", and "platform", together with hyphens. Accordingly, the disputed domain names are confusingly similar to Complainants' LASTMINUTE and HOTELSCAN trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, the terms "best", "media", "online", and "platform") may bear on assessment of the second and third elements, it does not prevent a finding of confusing similarity between the disputed domain names and Complainants' LASTMINUTE and HOTELSCAN trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel, therefore, finds the first element of the Policy has been established.

### **C. Rights or Legitimate Interests**

Second, Paragraph 4(c) of the Policy provides a list of circumstances in which Respondents 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 Complainants have established a prima facie case that Respondents lack rights or legitimate interests in the disputed domain names. Respondents have not rebutted Complainants' prima facie showing and have 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, Respondents have neither been granted a license nor have they been otherwise authorized by Complainants to use either of their LASTMINUTE and HOTELSCAN trademarks, either as a domain name or in any other way. Also, there is no reason to believe that Respondents' names somehow correspond with the disputed domain names, and Respondents do not appear to have any trademark rights associated with e.g. the terms "lastminute" and/or "hotelscan" on their own. Finally, the disputed domain names resolved at some point in the past to websites incorporating Complainants' official LASTMINUTE and HOTELSCAN trademarks and logos without any authorization to do so, and inducing Internet users to provide sensitive login information. Such use of the disputed domain names, therefore, neither qualifies as bona fide, nor as legitimate noncommercial or fair within the meaning of paragraph 4(c) of the Policy. In this context, panels have also long held that the use of a domain name for illegal activity (here: Complainants' impersonation/passing-off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel, therefore, finds the second element of the Policy has been established.

#### **D. Registered and Used in Bad Faith**

Third, 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 circumstances to this case leave no doubt that Respondents were fully aware of Complainants' business in the travel industry and their rights in the LASTMINUTE and HOTELSCAN trademarks when registering the disputed domain names and that the latter clearly are directed thereto. Moreover, using the disputed domain names to run websites with layout and content almost identical to Complainants' official websites, thereby also incorporating Complainants' official LASTMINUTE and HOTELSCAN trademarks and logos without any authorization to do so and, thereby, inducing Internet users into some apparently fraudulent login phishing scheme, is a clear indication that Respondents intentionally attempted to attract, for commercial gain, Internet users to their own websites by creating a likelihood of confusion with Complainants' LASTMINUTE and HOTELSCAN trademarks as to the source, sponsorship, affiliation or endorsement of Respondents' websites. Such circumstances are evidence of registration and use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. In this context, panels have also long held that the use of a domain name for illegal activity (here: Complainants' impersonation/passing-off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Finally, it also carries weight in the eyes of the Panel that Respondents obviously provided false or incomplete contact information in the Whois register for the disputed domain names which is in violation of Respondents' obligations under the respective domain name registration agreements. This fact at least throws a light on Respondents' behavior which supports the Panel's bad faith finding.

The Panel, therefore, holds that Complainants have established the third element of the Policy, too.

## 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 No. 1, <best-medialastminute.com>, be transferred to Complainant No. 1, while the disputed domain name No. 2, <platform-onlinehotelscan.com>, be transferred to Complainant No. 2.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Sole Panelist

Date: August 14, 2024