

ADMINISTRATIVE PANEL DECISION

B & B Hotels v. 20 hai, 上海
Case No. D2024-3115

1. The Parties

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

The Respondent is 20 hai, 上海, China.

2. The Domain Name and Registrar

The disputed domain name <comforthotel-bb.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 30, 2024. On July 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 7, 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 August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on September 17, 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 “Complainant’s trademarks”), and it has registered trademarks in many countries to protect these trading styles. These include, by way of example only, French trademark registration No. 3182313, for BB-HOTEL, dated August 29, 2002. 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 February 28, 2024, and does not resolve to any active website. The Complainant sent a cease-and-desist letter to the Registrar on May 6, 2024, however no response followed.

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 trademark. The generic Top-Level Domain (“gTLD”) indicator “.com” of the disputed domain name cannot be taken into consideration in the assessment of similarity. The disputed domain name consists solely of the Complainant’s famous mark taken in its entirety, with the minor addition of the descriptive word “comfort”, which is descriptive for hotel services.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is currently not and has never been known under the name “hotel-bb” or “comforthotel-bb” and he is not currently and has never been offering any goods or services under that name. The Complainant has not licensed or authorized the Respondent in any way to use the Complainant’s trademarks. The Complainant has never allowed the Respondent to register or to use the disputed domain name. The Respondent has not adduced any evidence of legitimate use of, or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the Respondent is not using the disputed domain name for a legitimate activity since the website is not accessible, demonstrating its lack of legitimate interests, except for gaining traffic from Internet users who will be misled by thinking that it is the Complainant’s website.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent was aware of the existence of the Complainant’s trademarks at the time of registration of the disputed domain name. The date of the registration of the disputed domain name is later than the date of registration of the Complainant’s trademarks. B&B HOTELS is a well-known mark and a famous hotel chain in France and in Europe and the mark is widely used in this respect. The Respondent’s sole intention is an intentional attempt to attract, for commercial gain, or to defraud Internet users to third party’s websites or other on-line location, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the web sites or locations. It is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name. It is also not possible to conceive of a plausible situation in which the Respondent would have been unaware of this fact at the time of registration. The Respondent clearly registered the disputed domain name without any specific intention to use it and propose any serious content online. The Respondent must have had in mind the Complainant’s trademarks rights when having registered the disputed domain name. The Respondent is taking commercial advantage of the Internet traffic coming to its websites thanks to the disputed domain name. The customers can be attracted to the disputed domain

name while trying to reach the Complainant's famous domain names and websites, considering the identity or high degree of similarity between the Complainant's trademarks and the disputed domain name. This creates a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

B. Respondent

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

6. Discussion and Findings

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 applicable gTLD in a domain name (e.g., ".com", ".club", or ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the mark BB-HOTEL is recognizable within the disputed domain name regardless of the inversion of the elements (e.g., "hotel-bb"). Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "comfort", 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.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

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 Respondent registered the disputed domain name with clear reference to the Complainant's trademarks. The mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademarks are well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademarks both in France and in particular through its Internet use, noting the Complainant's online presence. Thus, the Panel finds that the disputed domain name confusingly similar to the Complainant's trademarks was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name clearly referring to the Complainant's trademarks, and adding descriptive for hotel services word "comfort", 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 Respondent ignored its possibility to comment on the contrary and provide any good explanations to prove its good faith while registering and using the disputed domain name.

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

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: September 27, 2024