

ADMINISTRATIVE PANEL DECISION

B & B Hotels v. CPUBG

Case No. D2024-3614

1. The Parties

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

The Respondent is CPUBG, Philippines.

2. The Domain Name and Registrar

The disputed domain name <bbwhotel.com> is registered with Realtime Register B.V. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 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: <bbwhotel.com>) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 17, 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 September 18, 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 September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on October 14, 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 on May 28, 1990 and registered before the French Registry of Commerce under No. 378,047,500 (Annex 4 to the Amended Complaint). The Complainant adopted B&B HOTELS as its name and trademark since 1990 having been using it since then in connection with hotels, restaurants, temporary accommodations and related booking services, including through the Internet. Presently the Complainant has 748 hotels in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic and Brazil (Annex 5 to the Amended Complaint), having had in 2021 a turnover of more than EUR 220 million.

The Complainant is the owner of the following, amongst other, trademark registrations (Annexes 7.1 and 7.2 to the Amended Complaint):

- French trademark registration No. 3182311, for the word mark BBHOTEL, registered on August 29, 2002, in class 43;
- French trademark registration No. 3182312, for the word mark HOTELBB, registered on August 29, 2002, in class 43;
- French trademark registration No. 3182313, for the word mark BB-HOTEL, registered on August 29, 2002, in class 43;
- French trademark registration No. 053394439 for the word and device mark B&B HOTELS, registered on November 29, 2005, in class 43; and
- European Union trademark registration No. 004767323 for the word and device mark B&B HOTELS, registered on December 12, 2006, in class 43.

The Complainant also owns and operates the domain names such as <bbhotel.org>, <bbhotels.com>, <bbhotels.eu> and <bbhotels.com>.

The Complainant sent a Cease-and-Desist letter to the Registrar's abuse email address to be forwarded to the Respondent on July 19, 2024, which was replied on even date suggesting that a UDRP complaint be filed (Annexes 8.1 and 8.2 to the Amended Complaint).

The disputed domain name was registered on May 9, 2024. Presently, no active webpage resolves from the disputed domain name.

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 asserts to have reached the top position on the French market of budget hotels, having its B&B HOTELS trademark become well-known.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's word trademarks BBHOTEL, BB-HOTEL and HOTELBB, as well as prior domain names <bbhotel.eu>, <bbhotel.org>, <bbhotels.com>, <bbhotels.eu> and <bbhotels.com>. Under the Complainant's view, the disputed domain name consists solely of the Complainant's famous mark taken in its entirety, with the minor

addition of the letter “w” which does not change the visual, phonetic and conceptual similarity and may mislead Internet users into believing that the disputed domain name is owned by the Complainant, thus characterizing a typical typosquatting case.

Regarding the absence of the Respondent’s rights or legitimate interests, the Complainant argues that:

- i) the disputed domain name is currently unavailable;
- ii) the Respondent is currently not and has never been known by the disputed domain name;
- iii) the disputed domain name is not currently and has never been used in connection with a bona fide offering of goods or services;
- iv) the Complainant has not licensed or authorized the Respondent in any way to use the trademarks B&B HOTELS, BB-HOTEL, BBHOTEL or HOTELBB; also never having allowed the Respondent to register or to use the disputed domain name;
- v) 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.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that it is a well-known company and that its B&B HOTELS has become a well-known trademark and a famous hotel chain in Europe where the Complainant has 741 hotels, of which 396 are in France, where the trademark is widely used, being highly unlikely that the Respondent chose the disputed domain name without prior knowledge of the Complainant’s activities and trademark. Furthermore, the apparent non-use of the disputed domain name is further indicative of the Respondent’s bad faith conduct.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed 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 in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

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 entirety of the mark is reproduced 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.

Although the addition of a letter "w" may bear on assessment of the second and third elements, the Panel finds the addition of such letter 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.

In that sense, and according to the evidence submitted, the Complainant has made a prima facie case against the Respondent who has not been commonly known by the disputed domain name and is neither licensed or authorized by the Complainant to use the trademarks B&B HOTELS, BB-HOTEL, BBHOTEL or HOTELBB, also not having been allowed to register or to use the disputed domain name by the Complainant.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the apparent passive holding of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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.

The Complainant registered its B&B HOTELS, BB-HOTEL, BBHOTEL and HOTELBB trademarks many years before the Respondent's registration of the disputed domain name. The Panel is of the view that the Respondent knew or should have known of the Complainant's well-known B&B HOTELS, BB-HOTEL, BBHOTEL and HOTELBB trademarks when registering the disputed domain name.

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 includes: (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's trademark, 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.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights or legitimate interests; (ii) the indication of what appears to be false or incomplete contact details, not having the Center been able to deliver the written notice to the address indicated.

For the reasons above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The third element of the Policy has therefore been met.

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 <bbwhotel.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: October 23, 2024