

ADMINISTRATIVE PANEL DECISION

BravoNext SA v. bai sheng

Case No. D2024-3699

1. The Parties

The Complainant is BravoNext SA, Switzerland, represented by Bird & Bird Società tra Avvocati s.r.l., Italy.

The Respondent is bai sheng, Malaysia.

2. The Domain Names and Registrar

The disputed domain names <datenbank-lastminute.com> and <lastminute-system.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2024. On September 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 13, 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 the Complainant on September 13, 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 16, 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 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on October 24, 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 belongs to the lastminute.com group of companies. It owns and operates the website “lastminute.com” accessible through the domain name <lastminute.com >. Since 1998, the Complainant’s group provides customers with a range of offerings, including hotels, flights, spa days, and city breaks. The “lastminute.com” website with country-specific subsites accessible through the main website, as well as the corresponding app, Instagram and Facebook sites allow users to search, compare and book a wide range of travel options and packages around the world, including flights, hotels, train tickets, car rental and leisure activities. The Complainant’s website is “www.lastminute.com”, and has its services provided through country-specific websites (Annexes 3 to 5 to the Complaint). The offerings of the Complainant are characterized by a pink and white colour scheme. The Group to which the Complainant belongs, is active in 58 countries with 1,700 employees, having generated revenue in 2023 of EUR 321.3 million and a gross travel value of EUR 3,391 million (Annex 6 to the Complaint).

The Complainant owns, amongst others, the following trademarks (Annex 7 of the Complaint):

- European Union (“EU”) trademark registration no. 7200496 LASTMINUTE (word), registered on June 21, 2010, for services in Classes 35, 36, 39, 41, 43 and 44;
- EU trademark registration no. 7200413 “lastminute.com” (word), registered on April 26, 2010, for services in Classes 35, 36, 39, 41, 43 and 44;
- United Kingdom (“UK”) trademark registration no. UK00907200496 LASTMINUTE (word), registered on June 21, 2010, for services in Classes 35, 36, 39, 41, 43 and 44.

Both disputed domain names were registered on April 7, 2024 (Annex 1 of the Complaint). The disputed domain name <datenbank-lastminute.com> resolves to a website displaying the term “lastminute.com” in white writing on pink background inviting users to provide their phone numbers and create an account (Annex 8 of the Complaint). The disputed domain name <lastminute-system.com> does not resolve to any active website (Annex 9 of 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.

Notably, the Complainant contends that it owns trademark registration for LASTMINUTE and “lastminute.com” has therefore established trademark rights. The disputed domain names comprise the term “lastminute” in its entirety. According to the Complainant, the hyphens and the additional terms “datenbank” and “System”, respectively, featured in the disputed domain names do not prevent a finding of confusing similarity.

On the second element, the Complainant claims that the Respondent has no rights or legitimate interests in the disputed domain names. According to the Complainant, it has never authorized or otherwise given consent to the Respondent to register the disputed domain names or to use them. There is no evidence that the Respondent is commonly known by the disputed domain name. The Complainant also states that the

Respondent has not acquired any, or applied for trademark registration of “lastminute” (Annex 10 to the Complaint). The Respondent is using the disputed domain name <datenbank-lastminute.com> with clear reference to the Complainant’s “lastminute.com” trademark and pink color scheme (Annex 8 to the Complaint). The disputed domain name <lastminute-system.com> does not resolve to any active website and therefore is passively held by the Respondent (Annex 9 of the Complaint). Neither of this may, according to the Complainant, count as a bona fide offering or legitimate non-commercial use.

On the third element, the Complainant submits that the Respondent has registered and is using the disputed domain names in bad faith. As to registration in bad faith, the Complainant claims that its “LASTMINUTE” and “lastminute.com” trademarks are well-reputed, and that the Complainant has established rights in these trademarks well before the registration of the disputed domain names. As to use in bad faith, neither of the disputed domain names is used for a bona fide offering of goods or services or for a legitimate non-commercial purpose. Instead, the disputed domain name <datenbank-lastminute.com> is used to invite users to provide their phone numbers to create an account and log in. In connection with this the warning of suspected phishing site is displayed at the URL “https://www.datenbank-lastminute.com/” as per a screenshot provided in the Complaint by the Complainant). The fact that the disputed domain name <lastminute-system.com> does not resolve to any active website is corroborative of the Respondent’s bad faith, given that this is a pattern of conduct displayed by the Respondent in an earlier case (*BravoNext SA v bai sheng*, WIPO Case No. [D2024-2645](#)), to which the Complainant points. The Complainant concludes that both disputed domain names have been conceived and used to capitalize on the Complainant’s trademarks and to impersonate the Complainant so as to mislead users into believing an affiliation with the Complainant and to target the Complainant’s business.

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 purpose of the Policy. [WIPO Overview 3.0](#), section 1.2.1. In particular, it has shown rights in the terms “LASTMINUTE” as well as “lastminute.com”.

The entirety of the Complainant’s trademarks are reproduced within each of the disputed domain names. In addition, the Panel finds the marks are clearly recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purpose of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the other terms, here “datenbank” and “system”, respectively, 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 names and the mark for the purpose of the Policy. [WIPO Overview 3.0](#), section 1.8.

Consequently, the Panel finds that 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 names such as those enumerated in the Policy or otherwise.

The Respondent has intentionally combined the Complainant’s trademarks with the terms “datenbank” and “system”, respectively, which are descriptive terms relating to information technology, in order to create a risk of Internet users confusion.

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 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. Having reviewed the available record, the Panel finds the Respondent’s registration and use of both disputed domain names constitutes bad faith under the Policy. In assessing this, the Panel accepts a distinctiveness or reputation through use of the Complainant’s trademarks in the travel business and notes the composition of both disputed domain names, each consisting of the Complainant’s trademark and a descriptive term alluding to information technological functionalities. In addition, as far as the disputed domain name <datenbank-lastminute.com> is concerned, the website created by the Respondent, to which the disputed domain name resolves clearly, demonstrates the Respondent’s targeting of the Complainant’s trademark and business by using the same color scheme and look and feel, all of which falsely suggest an affiliation with the Complainant. In thus creating a likelihood of confusion, the Respondent seeks to obtain data from Internet users. Panels have held that the use of a domain name for illegal activity, here impersonation/passing off as the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. As far as the disputed domain name <lastminute-system.com> is concerned, even though it is presently inactive, 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 distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case, including the Respondent’s activities in relation to the disputed domain name <datenbank-lastminute.com> held by the Respondent as well as other domain names held by the same Respondent and composed with LASTMINUTES to which the Complainant has pointed, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Consequently, the Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and the 15 of the Rules, the Panel order that the disputed domain names <datenbank-lastminute.com> and <lastminute-system.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: November 7, 2024