

ADMINISTRATIVE PANEL DECISION

BravoNext SA v. bai sheng le le
Case No. D2024-4250

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 le le, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <boost-lastminute.com> is 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 October 15, 2024. On October 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 October 21, 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 October 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 12, 2024.

The Center appointed Fabrice Bircker as the sole panelist in this matter on November 19, 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, BravoNext SA, belongs to the Lastminute.com group of companies and operates the website Lastminute.com which is notably available at “www.lastminute.com”.

Since 1998 this website has been providing travel and leisure services.

The Complainant’s activities are notably protected through the following trademarks:

LASTMINUTE.COM, European Union Trade Mark No. 7200413, filed on August 29, 2008, registered on April 26, 2010, duly renewed since then, and designating services of classes 35, 36, 39, 41, 43 and 44;

LASTMINUTE, European Union Trade Mark No. 7200496, filed on August 29, 2008, registered on June 21, 2010, duly renewed since then, and designating services of classes 35, 36, 39, 41, 43 and 44.

The disputed domain name, <boost-lastminute.com>, was registered on August 15, 2024.

At the time of the drafting of the decision, it is inactive.

It results from the records of the case that when the Complaint was filed, the disputed domain name resolved to a website:

- purporting to be connected with the Complainant (it reproduced its trademarks and color identity, and referred expressly to the Complainant and to another related company); and
- inviting Internet users to provide their credentials to access their account with the Complainant’s “www.lastminute.com” website, or to create such an account.

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 confusingly similar to its LASTMINUTE trademark, because it reproduces the latter, and the added elements do not prevent it from being recognizable.

Besides, the Complainant argues that the Respondent has no rights or legitimate interests in respect with the disputed domain name, in substance because:

- the Complainant has neither authorized, nor given its consent to, anyone to register and use the disputed domain name;
- the Respondent cannot be known by the disputed domain name, which clearly refers to the Complainant’s trademarks LASTMINUTE and LASTMINUTE.COM;
- searches in trademarks databases show that there are no applications or registrations for LASTMINUTE-formative trademarks in the name of the Respondent; and
- the disputed domain name resolves to a website that expressly refers to the Complainant’s trademarks and business, and therefore is used to deceptively mislead visitors into believing that the corresponding website is associated with the Complainant.

Then, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- the LASTMINUTE and LASTMINUTE.COM trademarks are renowned, and the Complainant's rights are prior to the registration of the disputed domain name;
- the registration of a domain name identical or confusingly similar to a trademark by any entity that has no relationship to that trademark may be sufficient evidence of bad faith registration and use; and
- the disputed domain name is used to impersonate the Complainant to deceptively mislead the visitors of the corresponding website to fraudulently collect their personal data.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, in order to obtain a transfer of the disputed domain name, the Complainant must establish each of the following three elements:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- 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.

Besides, paragraph 15(a) of the Rules provides that "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraphs 10(b) and 10(d) of the Rules also provide that "[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3).

Taking the foregoing provisions into consideration the Panel finds as follows.

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 3.0](#), section 1.7.

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark, in particular the LASTMINUTE.COM trademark detailed in section 4 above, 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](#), sections 1.7 and 1.11.3.

Indeed, although the addition of other terms (here, “boost” and a hyphen) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy because the LASTMINUTE.COM trademark remains recognizable within said disputed domain name. [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.

Indeed, the Complainant contends that it has not given its consent for the Respondent to use its trademarks in a domain name registration or in any other manner.

In addition, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Besides, the disputed domain name is currently not used.

At last, before being deactivated, it resolved to a website:

- impersonating the Complainant (not only reproducing its trademarks and elements of brand identity, but also expressly referring to the Complainant as the owner of the displayed intellectual property rights, and to a related company as the operator of said website); and
- deceitfully collecting the personal data of the Complainant’s clients by inviting them to enter the credentials they use to access their account on the Complainant’s website or to create such an account.

In this respect, panels have held that the use of a domain name for illegitimate activity (such as phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Panel finds that:

- the use of the LASTMINUTE.COM trademark predates the registration of the disputed domain name by over 25 years;
- the disputed domain is confusingly similar to the Complainant's LASTMINUTE.COM trademark;
- as detailed in sections 4 and 6.B, the disputed domain name resolved to a website deceitfully impersonating the Complainant and illegitimately collecting personal data; and
- while invited to defend its case the Respondent has remained silent.

In these circumstances, the Panel considers that the Respondent has necessarily proceeded with the registration of the disputed domain name being fully aware of the Complainant's trademark.

Besides, it results from the above-mentioned conditions of use of the disputed domain name that the Respondent used it to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Indeed, the personal data illegitimately collected through the website under the disputed domain name have a financial value and can be used to misuse the identity of any individual having communicated with them. In this respect, Panels have held that the use of a domain name for illegitimate activity, such as phishing, impersonation/passing off, or any other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In sum, this case clearly falls within the scope of paragraph 4(b)(iv) of the Policy.

In addition, the fact that the disputed domain name is currently inactive does not change this analysis and does not prevent a bad faith finding.

Indeed, 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes:

- the reputation of the Complainant's trademark;
- the composition of the disputed domain name in as far as it associates the Complainant's LASTMINUTE.COM trademark with a meliorative term, and therefore carries a risk of implied affiliation with the Complainant and tends to suggest sponsorship or endorsement by the latter, whereas the Respondent is not connected to it;

- the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use;
- the implausibility of any good faith use to which the disputed domain name may be put given its fraudulent previous conditions of use.

The Panel 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.

In view of all the above, 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 <boost-lastminute.com> be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: December 3, 2024