

ADMINISTRATIVE PANEL DECISION

Belfius Bank S.A. / Belfius Bank N.V. v. Milen Radumilo
Case No. DCO2023-0003

1. The Parties

The Complainant is Belfius Bank S.A. / Belfius Bank N.V., Belgium, internally represented.

The Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <belfiusheusde.co> is registered with Dynadot, LLC (the "Registrar").

3. Procedural History

The Complaint was filed regarding the domain names <belfiusheusde.co> and <mobilebelfius.co> with the WIPO Arbitration and Mediation Center (the "Center") on January 10, 2023. On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 10 and 11, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrar, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as the formal Respondents and provide relevant arguments or evidence demonstrating that all the named Respondents are, in fact, the same entity and/or that all domain names are under common control and indicate which domain names will no longer be included in the current Complaint. The Complainant filed an amended Complaint on January 27, 2023, withdrawing <mobilebelfius.co> from the current proceedings. On January 27, 2023, the Center confirmed it would not proceed in this case against the domain name <mobilebelfius.co> and it would only continue the current proceeding regarding the disputed domain name <belfiusheusde.co> as of January 27, 2023.

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 January 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 20, 2023.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on February 23, 2023. 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 Belgian bank and financial services provider with more than 5,000 employees and over 650 branch offices in Belgium.

The Complainant owns several trademark registrations for BELFIUS, including *inter alia* the Benelux trademark number 914650, registered on May 10, 2012, and the European Union Trade Mark number 010581205, registered on May 24, 2012 (together referred to as: the "Mark").

The Complainant also owns over 200 domain names comprising the Mark, including <belfius.com>, registered on January 20, 201, and <belfius.be>, registered on January 23, 2012.

The disputed domain name was registered on November 29, 2022, and resolved to a website with Pay-Per-Click ("PPC") links. At the time of this decision, the disputed domain name directs to a dangerous, virus-infected site.

5. Parties' Contentions

A. Complainant

(i) The Complainant submits that the disputed domain name reproduces the Mark, in which the Complainant has rights, and is confusingly similar to the Mark insofar as the disputed domain name contains the Mark in its entirety. The Complainant also asserts that the addition of the term "heusde", evocative of the geographic location Heusden where the Complainant has a branch office, does not serve to distinguish the disputed domain name from the Mark.

(ii) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Furthermore, the Complainant contends that it never licensed the Respondent to use the Mark in any manner, or consented to such use. The Complainant also asserts that the Respondent never had any business connection or affiliation with the Complainant.

(iii) The Complainant submits that the Respondent knew of the Mark when registering the disputed domain name and is using the disputed domain name, by passive holding, in bad faith.

(iv) The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Aspects

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of paragraph 4(a) of the Policy

A. Identical or Confusingly Similar

In comparing the Mark with the disputed domain name, it is evident that the latter consists solely of the Mark, followed by the term "heusde", and by the country-code Top-Level Domain ("ccTLD") ".co".

The addition of terms does not prevent a finding of confusing similarity between a domain name and a trademark, where the trademark remains recognizable. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. Here, the Mark is clearly recognizable in the disputed domain name.

It is also well established that a ccTLD, including, as is the case here, the ccTLD ".co", does not generally affect the assessment of a domain name for the purpose of determining identity or confusing similarity.

The Panel finds that the disputed domain name is confusingly similar to the Mark, which it incorporates entirely.

Thus, the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Although a complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that with regard to paragraph 4(a)(ii) of the Policy this could result in the often impossible task of proving a negative proposition, requiring information that is primarily if not exclusively within the knowledge of a respondent.

Thus, the consensus view of UDRP panels is that paragraph 4(c) of the Policy shifts the burden of production of evidence to the respondent to come forward with evidence of rights or legitimate interests in a domain name, once the complainant has made a *prima facie* showing, as the Panel believes the Complainant has made in this case. See *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, the Panel being prepared to draw certain inferences in light of the particular facts and circumstances of the case. See [WIPO Overview 3.0](#), section 4.2.

As previously noted, the Respondent offered no reason for selecting the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name or makes a legitimate noncommercial or fair use of the disputed domain name.

No information is provided on what rights or legitimate interests the Respondent may have in the disputed domain name.

To counter any notion that the Respondent has such rights or legitimate interests, the Complainant has argued that the Respondent (i) has no business connection or affiliation with the Complainant, and (ii) received no license or consent from the Complainant to register or use the disputed domain name.

Moreover, the Panel finds the composition of the disputed domain name, incorporating the Complainant’s distinctive trademark with the term “heusde”, which is evocative of the geographic location Heusden where the Complainant contends it has a branch office, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

In the circumstances, the Panel concludes that the Complainant has established the requirement of paragraph 4(a)(ii) of the Policy with respect to the disputed domain name.

C. Registered and Used in Bad Faith

As noted above, the Respondent has failed to provide any exculpatory information or persuasive reasoning that might have led the Panel to question the Complainant’s arguments that the Respondent acted in bad faith by creating confusion to the detriment of the Complainant by registering the disputed domain name confusingly similar to the Mark.

It is established in prior UDRP decisions that where the respondent knew or should have known of a trademark prior to registering the disputed domain name, such conduct may, in certain circumstances, support a finding of bad faith. See [WIPO Overview 3.0](#), section 3.2.2.

In this case, given the large scale of the Complainant’s operations and the combination, in the disputed domain name of the Mark, with a misspelling of a location where the Complainant contends to have a branch, and considering and the lack of response of the Respondent in this proceeding, the Panel finds that it is highly unlikely that the Respondent chose to register the disputed domain name randomly with no knowledge of the Mark.

The Panel also notes that the Respondent has registered numerous other domain names similar to trademarks which were transferred to complainants further to the UDRP proceedings they initiated, thus showing a pattern of conduct by the Respondent who appears to be a serial cybersquatter, and which reinforces the implausibility of a registration of the disputed domain name without the prior knowledge of the Mark by the Complainant.

Some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, paragraph 2(b); *Nike, Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

The disputed domain name resolves to a website with PPC links. The Panel finds that the Respondent registered the disputed domain name with the Complainant's trademark in mind and with the intention of taking unfair commercial advantage of the goodwill associated with it. Therefore, the Respondent intentionally attempted 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 its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel concludes in the light of all these circumstances that the Respondent's registration and use of the disputed domain name constitutes bad faith, and that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied in this case.

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, <belfiusheusde.co>, be transferred to the Complainant.

/Louis-Bernard Buchman/
Louis-Bernard Buchman
Sole Panelist
Date: March 9, 2023