

PANEL DECISION

UAB “Onlychain Fintech Limited” v. Almudena Estevez, Vitel 2012, S.L.
Case No. DEU2024-0019

1. The Parties

Complainant is UAB “Onlychain Fintech Limited”, represented by Norton Rose Fulbright LLP, China.

Respondent is Almudena Estevez, Vitel 2012, S.L., Spain.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <bybit.eu> (“Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Domain Name is DonDominio.com / Soluciones Corporativas IP, SLU.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 18, 2024. On June 19, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On June 20, 2024, the Registry transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified Respondent of the Complaint, and the proceedings commenced on June 27, 2024. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was July 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 18, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on July 26, 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 ADR Rules, Paragraph B(5).

The language of the registration agreement is Spanish. The Complaint has been submitted in English pursuant to the Panel decision to change the language of the ADR Proceeding to English (*UAB "ONLYCHAIN FINTECH LIMITED" v. Almudena Estevez, Vitel 2012, S.L., WIPO Case No. [DEUL2024-0001](#)*).

4. Factual Background

Complainant is a company incorporated in Lithuania and is part of the Bybit Fintech group which operates a cryptocurrency exchange platform at <bybit.com>. Per the Complaint, Bybit is a top-three cryptocurrency exchange by volume with 20 million users, and is regulated by the Cyprus Securities and Exchange Commission.

Complainant's group holds trademark registrations for BYBIT, licensed to Complainant, namely the European Union trademark registration No. 018510560, BYBIT (word), filed on July 8, 2021 and registered on November 22, 2021, for goods and services in international classes 9, 36, 41, and 42; and European Union trademark registration No. 018510815, BYBIT (figurative), filed on July 8, 2021 and registered on November 22, 2021 for goods and services in international classes 9, 36, 41, and 42.

The Domain Name was registered on May 26, 2016, namely before the aforementioned trademarks. There is no other right under the Policy mentioned in the Complaint, that is prior to the Domain Name nor did the Panel locate any readily available online information on use of the BYBIT mark by Complainant prior to the Domain Name registration date of May 26, 2016.

The Domain Name leads to a parking page from the Registrar, and Complainant has demonstrated that it has done so at least since August 2018.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all elements required under Paragraph B(11)(d)(1) of the ADR Rules for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under Paragraph B(11)(d)(1) of the ADR Rules, in order for the Complaint to succeed, it is for Complainant to establish:

- (i) that the Domain Name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and;
- (ii) that the Domain Name has been registered by Respondent without rights or legitimate interests in the name; or
- (iii) that the Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Domain Name incorporates the trademark of Complainant in its entirety. Accordingly, the Domain Name is identical to Complainant's trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"¹), section 1.7).

The country code Top-Level Domain ("ccTLD") ".eu" is disregarded, as ccTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only.

The Panel finds that the Domain Name is identical to the BYBIT mark of Complainant.

Complainant has established Paragraph B(11)(d)(1)(i) of the ADR Rules.

B. Rights or Legitimate Interests / Registered or Used in Bad Faith

Under Paragraph B(11)(e) of the ADR Rules, a respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph B(11)(d)(1)(ii) by showing any of the following circumstances, in particular but without limitation:

(1) prior to any notice of the dispute, the respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;

(3) the Respondent is making legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national law and/or European Union law.

The Panel is unable to conclude on the basis of the above illustrative examples that Respondent has rights or legitimate interests in respect of the Domain Name.

Respondent has moreover not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Complainant has established that it has no relation with Respondent and has never authorized Respondent to use the BYBIT trademark in any way and that Respondent is not commonly known by the Domain Name.

Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name currently leads and has at least since August 2018 lead to a parking page from the Registrar.

¹ The Panel follows prior decisions under the ADR Rules and, given the similarities between the ADR Rules and UDRP, finds it appropriate to refer to UDRP jurisprudence, including reference to the "[WIPO Overview 3.0](#)".

While these circumstances would not normally confer upon Respondent any rights or legitimate interests in respect of the Domain Name, that is not the end of the picture here.

Even though the wording of the ADR Rules does not require addressing bad faith registration or use cumulatively, the Panel considers that in view of the circumstances of the case and in particular the fact that the trademark rights of Complainant post-date the registration date of the Domain Name, it is also useful to examine bad faith in order to assess whether Respondent's behaviour in the present instance falls within the scope of the ADR Rules and the Policy and their aim in combatting cybersquatting, also in light of Preamble 17 of the Regulation (EU) 2019/517 of the European Parliament and of the Council of March 19, 2019 which states that the aim of the alternative dispute resolution procedures is to ensure that speculative and abusive registrations are avoided as far as possible.

Complainant has not demonstrated rights through registration or use on the BYBIT mark that are prior to the Domain Name registration. On the contrary, the date of registration of the Domain Name is prior to Complainant's invoked registered trademark rights and prior to the existence of Complainant's BYBIT services. The Domain Name was registered on May 26, 2016, while the invoked trademark of Complainant was filed subsequently, namely on July 8, 2021. According to Complainant's website the BYBIT platform was launched also posterior to the Domain Name registration, namely in 2018. Furthermore, per Complainant, the BYBIT mark enjoyed reputation in the field of cryptocurrency exchange at the time of filing of the Complaint, however Complainant did not provide any evidence that Respondent would have sought to target such trademark such that even if the Domain Name was registered speculatively, it is not clear that it has been done so (nor used) abusively.

While the circumstances around the registration are unclear, Complainant did not demonstrate that the Domain Name was put into any use that had any relationship with the Complainant or its business. Complainant has demonstrated that the Domain Name leads to a parking page from the Registrar and this since at least 2018.

The Panel, taking into account all the circumstances of the case finds that there are insufficient facts on which to suggest that the Domain Name has been registered speculatively and abusively..

All the above lead the Panel to conclude that the circumstances are not sufficiently clear to enable it to make a finding in the Complainant's favor.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: August 26, 2024