

ADMINISTRATIVE PANEL DECISION

B&B Hotels v. Dinesh Vikum

Case No. D2023-2450

1. The Parties

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

The Respondent is Dinesh Vikum, Sri Lanka.

2. The Domain Name and Registrar

The disputed domain name <bestbbhotels.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 2023, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 9, 2023, 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 June 14, 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 June 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on July 17, 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 French company incorporated in 1990. It is offering hotel, restaurant, temporary accommodation, and related booking services, operates more than 700 hotels worldwide and has 1,000 employees.

The Complainant is the owner of the following trademark registrations for the sign BB HOTEL (the “BB HOTEL trademark”):

- the French trademark BB-HOTEL with registration No. 3182313, registered on August 29, 2002 for services in International Class 43; and
- the French trademark BBHOTEL with registration No. 3182311, registered on August 29, 2002 for services in International Class 43.

The Complainant is also the owner of the following trademark registrations for the sign B&B HOTELS (the “B&B HOTELS trademark”):

- the European Union trademark B&B HOTELS with registration No. 004767323, registered on December 12, 2006 for services in International Class 43; and
- the International trademark B&B HOTELS with registration No. 944670, registered on November 8, 2007 for services in International Class 43.

The Complainant is also the owner of the domain names <bbhotels.com>, registered on September 13, 2004, <bbhotel.eu>, registered on August 26, 2006, <bbhotels.fr>, registered on June 30, 2010, and <bbhotels.net>, registered on September 30, 2020. These domain names redirect to the Complainant’s official website.

The disputed domain name was registered on January 20, 2023. It resolves to a parking webpage of the Registrar, containing sponsored links, including to hotel accommodation offers by third parties.

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.

The Complainant states that the disputed domain name is confusingly similar to its BB HOTEL and B&B HOTELS trademarks, because it incorporates these trademarks in their entirety with the addition of the dictionary word “best” and the omission of the ampersand and the plural “s”. According to the Complainant, the word “best” does not change the visual, phonetic and conceptual similarity with the Complainant’s trademarks, and is likely to be seen as a descriptive way to promote the Complainant’s hotels and services. The Complainant adds that the use of the ampersand is not possible in a domain name. The Complainant notes that the disputed domain name is also confusingly similar to the Complainant’s domain names <bbhotel.eu>, <bbhotels.com>, and <bb-hotels.fr>.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant submits that it has not authorized the Respondent to use the BB HOTEL trademark or to register or to use the disputed domain name, and that the Respondent is not known under the name “Bestbbhotels”. The Complainant points out that the Respondent is not offering any goods or services under that name, but is only using the disputed domain name for a parking webpage with links to

accommodation booking services and no real activity. According to the Complainant, the Respondent thus uses the disputed domain name only to benefit from the Complainant's brand reputation to gain Internet traffic and mislead Internet users into thinking that they have reached the Complainant's website, leading them into clicking on the links placed on the Respondent's website.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It maintains that the Respondent was aware of the Complainant's BB HOTEL and B&B HOTELS trademarks at the time of registration of the disputed domain name, and registered it to attract Internet users to websites of the Complainant's competitors for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of these offerings.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the BB HOTEL and B&B HOTELS trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds that the BB HOTEL and B&B HOTELS trademarks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to these trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, "best") 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 name and the BB HOTEL and B&B HOTELS trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often-impossible 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. 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 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.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

The disputed domain name is confusingly similar to the BB HOTEL and B&B HOTELS trademarks of the Complainant, and the Respondent has not given any explanation as to its intentions. The disputed domain name which is comprised of the term "best" before the Complainant's marks merely resolves to a parking webpage of the Registrar, containing sponsored links competitive with the Complainant. The Panel is mindful that where a mark bears descriptive qualities, a domain name comprised of that mark plus a laudatory term may also conceivably be used in a non-trademark sense. Here, that could be, *e.g.*, a curated list of "best" accommodations. In the present case however, there is no such use, and the Complainant has been in business for decades with a global trademark footprint and hundreds of hotels; without the assistance of a Response, these factors lead to the inference that the Respondent's intention was likely to draw traffic based on the Complainant's mark.

Based on the available record, and notably in the absence of any Response whatsoever (formal or otherwise), the Panel therefore 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 considers that the record of this case reflects that:

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

As already mentioned, the Respondent has not provided any explanation why it has registered the disputed domain name. It is confusingly similar to the BB HOTEL and B&B HOTELS trademarks of the Complainant and merely adds the term "best" to those marks and resolves to a parking webpage containing competing sponsored links. Considering the above, it seems more likely than not that the Respondent has registered the disputed domain name with knowledge of the Complainant in an attempt to attract Internet users and direct them to third-party competitors of the Complainant for financial gain, by creating a likelihood of confusion with the Complainant's BB HOTEL and B&B HOTELS trademarks as to the affiliation or endorsement of the hotel offerings on the parking webpage of the disputed domain name.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <bestbbhotels.com> be transferred to the Complainant.

/Assen Alexiev

Assen Alexiev

Sole Panelist

Date: July 30, 2023