

ADMINISTRATIVE PANEL DECISION

Ibanfirst v. kak gao
Case No. DNL2022-0039

1. The Parties

The Complainant is Ibanfirst, Belgium, represented by Nameshield, France.

The registrant of the disputed domain name is kak gao, China (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <ibanfirst.nl> is registered with SIDN through 1API GmbH.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2022. On September 29, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On September 30, 2022, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 3, 2022, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on October 3, 2022.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on October 4, 2022. In accordance with the Regulations, article 7.1, the due date for Response was October 24, 2022. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on October 25, 2022.

The Center appointed Richard C.K. van Oerle as the panelist in this matter on October 31, 2022. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant internationally offers financial services with a platform dedicated to multi-currency transactions.

The Complaint is based on the following trademark registrations:

- European Union Trade Mark Registration number 015833379 for the word mark IBANFIRST, filed on September 14, 2016, and registered on December 28, 2016; and
- European Union Trade Mark Registration number 017317702 for the word/device mark IBANFIRST (fig), filed on October 11, 2017, and registered on January 29, 2018.

Both registrations have been duly renewed and are still valid. These registrations will jointly be referred to as the "Trademark".

The Complainant also uses as domain name <ibanfirst.com>, registered and used for its official website since May 16, 2002.

According to the information provided by SIDN, the Respondent registered the disputed domain name on August 10, 2019. It resolves to a parking page where the disputed domain name is offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant states, in summary and in so far as relevant, the following.

The Complainant internationally offers financial services offering solutions beyond banking borders and provides companies with a platform dedicated to multi-currency transactions. Regulated by the National Bank of Belgium as a payment institution authorized to operate throughout the European Union, member of the SWIFT network and SEPA approved, the Complainant today serves thousands of customers across Europe and has over 260 employees.

The Complainant contends that the disputed domain name is identical to the Trademark as it incorporates the Trademark in its entirety. The addition of the country code Top-Level Domain ("ccTLD") ".nl" does not change the overall impression of the designation as being connected to the Trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent has not been commonly known by the disputed domain name and the Respondent is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant has granted neither licence nor authorization to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name. Besides, the disputed domain name resolves to a parking page where the disputed domain name is offered for sale. The Complainant contends this general offer to sell the disputed domain name, evidences the Respondent's lack of rights or legitimate interest.

The disputed domain name has been registered and is being using in bad faith. The disputed domain name is identical to the prior Trademark. The term "ibanfirst" has no meaning in English, Dutch, or any other language. All the Google results for this term refer to the Complainant. Therefore, the Complainant argues that there is no doubt that the Respondent has registered the disputed domain name with full knowledge of the Trademark. Moreover, the disputed domain name resolves to a parking page displaying a general offer to sell the disputed domain name. The Complainant claims that the Respondent fails to make an active use of the disputed domain name, which evidences bad faith. Furthermore, the Complainant contends that the

Respondent has registered the disputed domain name only in order to sell it back for out-of-pocket costs and that the Respondent likely registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name for valuable consideration in excess of the cost of registration, which constitutes bad faith registration under the Regulations. On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

Pursuant to article 2.1 of the Regulations the Complainant must demonstrate each of the following three elements:

a. the disputed domain name is identical or confusingly similar to:

I) a trademark or trade name protected under Dutch law in which the Complainant has rights; or

II) a personal name registered in the General Municipal Register (*Gemeentelijke Basisadministratie*) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and,

b. the Respondent has no rights to or legitimate interests in the disputed domain name; and,

c. the disputed domain name has been registered or is being used in bad faith.

As the Respondent has not filed a response, the Panel shall rule on the basis of the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

The Complainant established that it has rights in the Trademark, protected under Dutch law.

The disputed domain name incorporates the Trademark in its entirety, save for the ccTLD “.nl”, which may be disregarded for the purpose of assessing the merits under the first element. See, *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the disputed domain name is identical to the Trademark. The Complainant has thus satisfied the requirements of the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

Under the second element, the Complainant must make out a *prima facie* case that the Respondent lacks rights to or legitimate interests in the disputed domain name. Once the Complainant fulfils this requirement, the Respondent needs to present evidence showing that it does have rights to or legitimate interests in the

disputed domain name. See, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

The Complainant alleges that the Respondent lacks rights to or legitimate interests in the disputed domain name for the reasons set out in section 5.A above. The Panel finds that the Complainant has fulfilled the obligation to establish *prima facie* that the Respondent has no rights to or legitimate interests in the disputed domain name. Because of its failure to submit a response, the Respondent has not rebutted the arguments of the Complainant and/or shown rights to or legitimate interests in the disputed domain name.

The Panel concludes that the Respondent does not have rights to or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied the second element of the Regulations.

C. Registered or Used in Bad Faith

The Panel finds that at the time of registration of the disputed domain name, the Respondent was or should have been aware of the Trademark. The disputed domain name is identical to the prior Trademark. A simple online search prior to the registration of the disputed domain name would have informed the Respondent of the existence of the Complainant's prior use of its trademark rights. Moreover, the composition of the disputed domain name itself strongly suggests that the Respondent targeted the Trademark.

There is no evidence of any good faith use of the disputed domain name by the Respondent. The disputed domain name is now being offered for sale. This indicates that the Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name. The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, is further evidence of bad faith, given the circumstances of the case (see, [WIPO Overview 3.0](#), section 3.2).

For the above reasons, the Panel finds that the Respondent has registered and uses the disputed domain name in bad faith and concludes that the requirement under article 2.1(c) of the Regulations has been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <ibanfirst.nl> be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Panelist

Date: November 8, 2022

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore WIPO Overview 3.0, may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. DNL2008-0050).