

ADMINISTRATIVE PANEL DECISION

B&B Hotels v. BKN Dutt/ AJMAN BEACH HOTEL

Case No. D2023-4143

1. The Parties

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

The Respondent is BKN Dutt/ AJMAN BEACH HOTEL, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <bbhotel.com> is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023. On October 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 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 (To the owner of the domain name: bbhotel.com / Statutory Masking Enabled) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 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 October 20, 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 October 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2023. The Respondent sent an email to the Center on November 14, 2023. The Complainant submitted an unsolicited supplemental filing on November 17, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on December 5, 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 company registered in France, with an incorporation date of May 28, 1990.

The Complainant is the owner of various trademark registrations comprising or including the terms B&B HOTEL or BBHOTEL, including the following:

- France trademark number 1635994 for a combined mark comprising the text B&B HOTEL and a design, registered on June 7, 1991 in International Class 43;
- International trademark registration number 656222 for a combined mark comprising the text B&B HOTEL and a design, registered on June 28, 1996 in International Class 42; and
- France trademark number 3182311 for the word mark BBHOTEL, registered on February 14, 2003 in International Class 43.

The disputed domain name was registered on February 22, 1998.

The disputed domain name does not appear to have resolved to any active website.

5. Parties' Contentions

A. Complainant

The Complainant submits that it has operated under the name and trademark B&B HOTELS since 1990. It exhibits evidence including entries in the Brest, France regional business registry, including the use of the commercial signs B&B and B&B HOTELS, since January 1, 1991.

The Complainant submits that it currently operates over 700 hotels worldwide (albeit primarily in France) with a turnover of over EUR 280 million in 2019. It produces a list of the countries in which it operates and the number of hotels in each such country as at May 5, 2023 (although without any indication of the dates when such operations commenced). The Complainant also produces a list of a substantial portfolio of domain names including the terms "bb" and "hotel", the earliest being <hotel-bb.com>, registered on February 18, 1998. All of the remaining domain names were registered after the date of registration of the disputed domain name.

The Panel notes at this point that evidence of the Complainant's commercial activities and the reputation of its trademarks after the date of registration of the disputed domain name is of limited relevance in this case.

The Complainant cites 17 previous decisions under the UDRP, dating from 2011 to 2023, in which it has been successful in obtaining the transfer of domain names including the terms "bb" (or "bandb") and "hotel". Those decisions include, for example, *B&B Hotels v. yansheng zhang*, *GNAME.COM PTE. LTD*, WIPO Case No. [D2021-1400](#), concerning the domain name <hotelbb.net>.

The Complainant submits that the disputed domain name is confusingly similar to its trademarks BBHOTEL, B&B HOTEL and B&B HOTELS (which appears to be the name under which the Complainant originally operated).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or authorized the Respondent to use its trademarks referred to above, that the Respondent is not known by the disputed domain name and that the Respondent is making neither bona fide commercial use, nor legitimate noncommercial or fair use, of the disputed domain name.

The Complainant submits that the disputed domain name has never been used since its registration. It further contends that the hotel which is operated by the Respondent is named "Ajman Beach Hotel", located in Dubai, and that the Respondent does not use the mark BBHOTEL in any manner in connection with that hotel. The Complainant contends that the Respondent registered the disputed domain name fraudulently to target the Complainant's BBHOTEL trademark, since it reproduces exactly the Complainant's trademark and relates to the same activities as those for which the trademark is registered.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that the Respondent was aware of its trademarks at the time it registered the disputed domain name, it having used such trademarks for several years prior to that registration. It submits that there is no plausible reason for the Respondent to have chosen the disputed domain name in connection with its own hotel, as the acronym for that hotel name would be "abh" and not "bb". The Complainant contends that the Respondent can only have registered the disputed domain name in order to create confusion between the disputed domain name and the Complainant's trademark, in connection for example with a website (although the disputed domain name has not in fact been used). The Complainant submits that the Respondent's non-use of the disputed domain name does not prevent a finding of bad faith in these circumstances.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not file a formal Response in the proceeding. However, in its email to the Center dated November 14, 2023 the Respondent states that its identity is "Bhatia Brothers Group", having 100 years of business history in the Indian sub-continent and the Persian-Arabian Gulf countries. The Respondent states that the Ajman Beach Hotel has been part of the "Bhatia Brother [sic] Hotel Division" since 1979 and that it has used the disputed domain name since 1998. The Respondent contends that, since the Bhatia Brothers Group has an hotel division, the disputed domain name was an obvious choice.

The Respondent incorporates in its email a cut-and-paste of certain information concerning "Bhatia Brothers". This includes a list of its industry segments and divisions, which include "Hospitality". However the Respondent exhibits no other evidence in support of its submissions.

The Respondent submits that the Complainant is "invalid" in the circumstances.

6. Procedural Orders and Complainant's Supplemental Filing

As discussed in section 4.3 of WIPO Overview of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"):

"Panels have typically treated a respondent's submission of a so-called "informal response" (merely making unsupported conclusory statements and/or failing to specifically address the case merits as they relate to the three UDRP elements, e.g., simply asserting that the case "has no merit" and demanding that it be dismissed) in a similar manner as a respondent default."

The Panel found the Respondent's informal response to fall into this category. Having also had regard to the contents of the Complainant's unsolicited supplemental filing referred to above, the Panel issued a Procedural Order No. 1 on December 26, 2023 as follows:

“1. Upon reviewing the Complaint, the Respondent’s email dated November 14, 2023 and the Complainant’s unsolicited supplemental filing dated November 17, 2023, the Panel directs that the Respondent does within 5 business days produce:

(1) documentary evidence to establish that Ajman Beach Hotel was owned by, or otherwise commercially affiliated with, any entity registered or otherwise known by the name Bhatia Brothers as of February 22, 1998;

(2) documentary evidence of the commercial activities of the entity or division described as Bhatia Brothers Hotel Division as of February 22, 1998, including in particular any use of the name “BB Hotel” or any similar name in connection with such activities; and

(3) documentary evidence of any use the Respondent claims to have made of the disputed domain name since registration, whether for the purpose of any website, email addresses or otherwise.

2. The Panel provides the Complainant with five days from receipt of the Respondent’s submissions to offer any rebuttal.

The Respondent’s submissions should be received by the Center no later than January 3, 2024.

The Complainant’s submissions should be received by the Center no later than January 10, 2024.

The Decision due date is extended to January 17, 2024.”

The Respondent did not make any response to the Procedural Order No. 1.

The Panel issued a second Procedural Order on January 24, 2024 as follows:

“The Panel having undertaken limited factual research into matters of public record as contemplated by section 4.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), including examination of the Respondent’s website at “www.ajmanbeachhotel.com” and the history of that website at “www.archive.org”, it appears to the Panel as follows:

(1) that the Respondent’s said website provides contact email addresses at [...]@bbhotel.com and [...]@bbhotel.com and has included the first of those email addresses since at least December 7, 2016; and

(2) that previously, and from at least October 8, 2003, the Respondent’s website displayed a distinctive “BB” logo and the wording “A part of Bhatia Brothers Hotel Division”

Resources:

<http://ajmanbeachhotel.com/contact>
<https://web.archive.org/web/20161207041526/http://ajmanbeachhotel.com/contact>

<https://web.archive.org/web/20031008161731/http://www.ajmanbeachhotel.com/intro.htm>

The Panel directs in the circumstances that:

1. The Complainant shall by January 31, 2024 file any submissions as to why the above matters do not evidence rights or legitimate interests on the part of the Respondent in the disputed domain name.

2. The Respondent may by February 7, 2024 reply to the Complainant’s said submissions.

3. The date for the Decision be extended to February 14, 2024.”

The Complainant filed a response to the second Procedural Order on January 31, 2024.

The Complainant submits that the “[...]@bbhotel.com” email addresses are mentioned on the Respondent’s Ajman Beach Hotel website, and not on any website to which the disputed domain name resolves, and those email addresses are therefore “not relevant”. The Complainant contends, on the contrary, that the use of the email addresses on that website will merely confuse Internet users into believing that the Respondent’s hotel is part of the Complainant’s group. The Complainant adds that nothing on the Ajman Beach Hotel website demonstrates any legitimate link with the term “bbhotel”.

The Complainant repeats its submission that the disputed domain name “... [has never been] used since its registration.”

The Complainant further submits that the Respondent’s use of “BB A part of Bhatia Brothers Hotel Division” is “isolated and insufficient to demonstrate any legitimate interest.” It contends that, once again, the reference appeared on the Respondent’s Ajman Beach Hotel website, and not on any website to which the disputed domain name has resolved, and that the statement appeared on a sub-domain of the Respondent’s website and was particularly hard to find. It also submits that the statement ceased to appear on the Respondent’s website after May 7, 2017.

Having considered the Complainant’s supplemental filing, the Panel does not find it necessary to consider any further submissions from the Respondent in reaching its decision.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

A. Identical of Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in the mark BBHOTEL. The disputed domain name is identical to that trademark. It is irrelevant for the purposes of the first element under the Policy (although potentially relevant to the second and third elements) that the trademark was registered after the date of registration of the disputed domain name.

In addition, the Panel finds the disputed domain name to be confusingly similar to the Complainant’s trademark B&B HOTEL, differing from the textual element of that mark only by the omission of the ampersand, which does not prevent the trademark from being recognizable within the disputed domain name.

The Panel therefore finds the disputed domain name to be both identical and confusingly similar to trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

While the Complainant has established that it owns registered trademarks including BBHOTEL and B&B HOTEL, the Panel does not find those trademarks to be particularly distinctive in nature, consisting of two initial letters and the dictionary term “hotel”. Indeed, the Panel notes in passing that the term “B&B” has its own generic meaning in the hospitality sector, at least in the English language, referring to “bed and breakfast” accommodation. The Panel does not consider in the circumstances that any third-party domain

name containing the term “bb” and “hotel” should necessarily be assumed to be targeting the Complainant’s trademark, as opposed to being used for a bona fide purpose. Indeed, while the Complainant cites numerous previous decisions under the UDRP in which it has been successful, the Panel notes that there are other cases in which it has been unsuccessful, e.g., *B&B Hotels v. Jose Ferreiro, FERREIRO SA DE CV*, WIPO Case No. [D2023-2455](#), concerning the domain name <bbboutiquehotel.com> and *B&B Hotels v. Lesley Coombs*, WIPO Case No. [D2021-2174](#), concerning the domain name <hotelbnb.com>. The question for determination under this element of the Policy is, therefore, whether the Respondent registered the disputed domain name in furtherance of a legitimate commercial interest, or alternatively for the purpose of dishonestly targeting the Complainant’s trademark.

In this regard, the Panel is satisfied, on the evidence available to it, that the Respondent’s Ajman Beach Hotel has at all material times been connected with the business group known as Bhatia Brothers. The Panel finds Bhatia Brothers Group to be a legitimate and longstanding commercial organization with multiple interests in industrial and other sectors, including hospitality. The Panel finds further that the group has used the term “BB” to signify the name Bhatia Brothers in this connection, and used that term on the Ajman Beach Hotel website at least from 2003.

While the Complainant has repeatedly protested that the Respondent has made no use of the disputed domain name since registration, that is contradicted by the evidence of the use of the disputed domain name for email addresses “[...]@bbhotel.com”. While it is correct that the disputed domain name does not appear to have resolved to any active website, the use of a domain name for email purposes alone is capable of being a legitimate use of that name. In this regard, the Panel notes that the relevant email addresses appear to have been used as contact addresses for the Ajman Beach Hotel, on the principal website of that hotel, since at least 2016. The Panel further notes that emails in connection with this proceeding were sent from the Center to four different email addresses “[...]@bbhotel.com” all but one of which appear to have been successfully delivered, and one of which was used to transmit the Respondent’s email dated November 14, 2023 to the Center.

While the Panel accepts that the Complainant has traded under names including B&B HOTELS since at least 1991 (albeit primarily in France), the Panel is not persuaded, in the light of the matters referred to above, that the Respondent is likely to have registered the disputed domain name in 1998 for the purpose of dishonestly targeting the Complainant’s trademarks. The Panel finds it more probable, on balance, that the Respondent registered the disputed domain name for legitimate purposes connected with the ownership of the Ajman Beach Hotel by Bhatia Brothers Group, and in particular for email addresses reflecting that organization’s hospitality interests.

The Complainant has not, therefore, met its burden of demonstrating, on the balance of probabilities, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the Complainant must necessarily fail.

C. Registered and Used in Bad Faith

While the Panel’s findings under the second element are sufficient to dispose of this proceeding, the Panel comments that it would make similar findings in respect of the third element under the Policy. The Panel is not of the view that the Respondent is likely to have registered the disputed domain name with the Complainant’s BBHOTEL and/or B&B HOTEL trademarks in mind and for the purpose of taking unfair advantage of those trademarks. Nor does the Panel consider that the Respondent has used the disputed domain name for the purpose of confusing Internet users into believing that the Ajman Beach Hotel is part of the Complainant’s hotel group, or for any other bad-faith purpose as contemplated by paragraph 4(b) of the Policy. The Complainant could not establish, therefore, that the disputed domain name was registered and has been used in bad faith.

8. Decision

For the foregoing reasons, the Complaint is denied.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 1, 2024