

ADMINISTRATIVE PANEL DECISION

B&B HOTELS v. Frankie Melowskie

Case No. D2024-4562

1. The Parties

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

The Respondent is Frankie Melowskie, Netherlands (Kingdom of the).

2. The Domain Names and Registrars

The disputed domain name <bbqhotel.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 8, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 2024, 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 November 13, 2024.

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 November 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 11, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on December 21, 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 Rules, paragraph 7.

4. Factual Background

The Complainant is a French company incorporated in May 1990 which provides services of hotels, restaurants, temporary accommodations and related booking services, including through the Internet. The Complainant holds more than 860 hotels worldwide in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic, and Brazil and 432 hotels are operating in France. The Complainant had a turnover of more than EUR 220 million in 2021.

The Complainant owns several trademarks composed of the elements “BB” and “hotel” in various order, such as the following:

- the European Union trademark registration number 04767323 for B&B HOTELS (word with device), filed on November 29, 2005, registered on December 12, 2006, covering services in International Class 43; and
- the French trademark registration number 3182311 for BBHOTEL (word), registered on August 29, 2002, covering services in International Class 43.

The Complainant owns domain names incorporating BBHOTEL, such as <bbhotel.eu> registered on July 7, 2011, <bbhotels.com> registered on October 18, 2022, or <bb-hotels.com> registered on September 20, 2022.

The disputed domain name was registered on June 30, 2024, and, at the time of filing of the Complaint, it resolved to an error page.

On September 4, 2024, the Complainant send a cease-and-desist letter to the Registrar, and, as a response it was advised that the Registrar is not able to settle such type of matter and suggested to file an UDRP complaint.

According to Annex 11 to the Complaint, the name of the Respondent revealed by the Registrar corresponds to an individual which registered at least one other domain name comprising the Complainant's mark.

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.

Notably, the Complainant contends that its trademarks are famous for an economic hotel chain in France and Europe and, therefore, well-known in the customer's mind; the disputed domain name is confusingly similar to its trademarks, commercial name, shop sign B&B HOTELS, and domain names; the disputed domain name consists solely of the Complainant's famous trademark taken in its entirety, with a minor addition of the letter “q” between “bb” and “hotel”, is confusingly similar to its trademark BBHOTEL and to the radical of its domain names <bbhotel.eu>, <bbhotel.org>, etc. and therefore it is a typical typosquatting behavior which creates an even overall impression of similarity; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent registered and is using the disputed domain name

in bad faith; the Respondent's sole intention is an intentional attempt to attract, for commercial gain, or to defraud Internet users to third party's websites or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the web sites or locations; the non-use of the disputed domain name, associated with the registration of a radical, that is almost identical to the Complainant's prior rights, clearly establish that the use of the disputed domain name is being made in bad faith to take advantage of the Complainant; the Respondent, as revealed by the Registrar, registered another domain name comprising the Complainant's BBHOTEL mark under the ".de" country code Top-Level Domain ("ccTLD") and similarities in registration details suggest the Respondent's registration of another domain name under the "nl" ccTLD, though the name is not available to the Complainant.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities 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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the BBHOTEL mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other term, here the letter "q", may bear on assessment of the second and third elements, the Panel finds the addition of such letter does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 such as those enumerated in the Policy or otherwise.

The Panel 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.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark, commercial name and domain names particularly because it reproduces the Complainant's mark BBHOTEL with a minor alteration, the Complainant's trademarks predate the registration of the disputed domain name by more than 20 years, and have gained reputation in their industry, particularly in Europe, where the Respondent appears to be located.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

At the time of filing of the Complaint, the disputed domain name was not actively used. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel notes the composition of the disputed domain name; the Respondent's failure to respond in the present proceedings; the Respondent's use of false or inaccurate contact details in the Whois (as the written communication couldn't be delivered); the implausibility of any good faith use to which the disputed domain name may be put by the Respondent that would not imply association to the Complainant, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. The Respondent has registered at least one other domain name incorporating the Complainant's trademark, as detailed in section 4 above, which was ultimately transferred into the Complainant's control according to Annex 11.4 of the Complaint. UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registrations. [WIPO Overview 3.0](#), section 3.1.2.

The Panel finds that the Complainant has established the third element of the Policy.

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 <bbqhotel.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: December 27, 2024