

ADMINISTRATIVE PANEL DECISION

B&B Hotels v. Robert Majeric

Case No. D2022-0155

1. The Parties

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

The Respondent is Robert Majeric, Slovenia.

2. The Domain Name and Registrar

The disputed domain name <hotel-bb.online> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2022. On January 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2022, 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 and contact information in the Complaint). The Center sent an email communication to the Complainant on January 20, 2022 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 January 21, 2022.

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 January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Center received an email communication from the Respondent on January 27, 2022. On January 31, 2022, the Center invited the Parties to explore settlement options. The Complainant did not submit a request for suspension. The Center notified the commencement of Panel appointment process on February 15, 2022.

The Center appointed Luca Barbero as the sole panelist in this matter on February 21, 2022. 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 that operates a chain of hotels across Europe and in Brazil under the brand B&B HOTELS. It is the owner of numerous trademark registrations, including the following:

- European Union Trade Mark Registration No. 004767323 for B&B HOTELS (figurative mark), registered on December 12, 2006, for services in class 43;
- French Trademark Registration No. 3182311 for BBHOTEL (word mark), registered on August 29, 2002, for services in class 43;
- French Trademark Registration No. 3182312 for HOTELBB (word mark), registered on August 29, 2002, for services in class 43;
- French trademark registration n. 3182313 for BB-HOTEL (word mark), registered on August 29, 2002, in international class 43.

The Complainant is also the owner, amongst others, of the domain name <hotel-bb.com>, used by the Complainant to promote its hotel and restaurant activities, and offer online reservation services under the trademark B&B HOTELS.

The disputed domain name <hotel-bb.online> was registered on November 15, 2021 and is currently redirected to an internal page of the Dan.com website where the disputed domain name is for sale at USD 65,899. According to the documents and statements submitted by the Complainant, on January 5, 2022, in reply to the Complainant's cease and desist letters, the Respondent requested USD 4,799 to transfer the disputed domain name to the Complainant (Annex 3 to the Complaint), whilst, on January 14, 2022, the disputed domain name was offered for sale to public at the amount of "USD 23.588" (Annex 10.1 to the Complaint). The Whois records for the disputed domain name taken from Domaintools.com, dated December 23, 2021 and submitted by the Complainant as Annex 1, also mentions that the disputed domain name "is listed for sale at one of our partner sites for USD \$80.448".

5. Parties' Contentions

A. Complainant

The Complainant contends that disputed domain name <hotel-bb.online> is confusingly similar to the trademarks B&B HOTELS, HOTEL BB, HOTELBB, BBHOTEL and BB-HOTEL in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the generic Top-Level Domain ("gTLD") ".online".

The Complainant also underlines that, since the use of the symbol "&" is not possible in a domain name, such ampersand appearing in the Complainant's trademark is irrelevant in the assessment of the similarity of the signs. The Complainant further notes that it also removed the ampersand in its own domain name registrations associated with its trademark B&B HOTELS.

The Complainant states that the Respondent lacks rights and legitimate interests in the disputed domain name, since the sole purpose of the Respondent was to sell it to other companies.

The Complainant states that the Respondent is also not commonly known by the disputed domain name, has never been licensed or authorized in any way by the Complainant to use the trademarks B&B HOTELS, HOTELBB, HOTEL BB, HOTEL-BB, BB-HOTEL or BBHOTEL or register the disputed domain name using the afore mentioned trademarks.

The Complainant also underlines that the Respondent has never made legitimate use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services and that, on the contrary, the Respondent is not pointing the disputed domain name to an active website and is only using it for the purpose of selling it and gaining traffic from Internet users who will be misled into believing that the website to which the disputed domain name resolves is in some way associated with the Complainant. Such conduct would also be a clear demonstration of the Respondent's lack of legitimate interests in the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, in light of the prior registration and use of the Complainant's trademarks and of the well-known character of the trademark B&B HOTELS, the Respondent was clearly aware of the Complainant's trademark at the time of registration. The Complainant further states that the Respondent registered the disputed domain name with the sole purpose of selling it at a greater cost. The Complainant also indicates that, in view of the identity or high degree of similarity between the Complainant's trademarks and the disputed domain name, customers can be attracted to the Respondent's website while trying to reach the Complainant's famous websites, and this creates a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

B. Respondent

The Respondent sent an informal communication to the Center on January 27, 2022, stating that the Complainant should terminate the dispute since the Respondent simply bought the disputed domain name because it was being offered for sale.

The Respondent further contends that, if the Complainant felt it was a victim of injustice, it should either consider changing its company name and all other information or choose to make a reasonable offer to purchase the disputed domain name whilst arranging to end the dispute amicably.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) the disputed domain name registered by the Respondent 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 or Confusingly Similar

The Complainant has provided evidence of ownership of trademark registrations for B&B HOTELS, HOTEL BB, HOTELBB, BBHOTEL and BB-HOTEL in several countries of the world, as mentioned under section 4 above. All the cited trademark registrations contain, as prominent denominative element, the term "hotel", singular or plural, in combination with the two letters "bb".

As highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel notes that the core of all the Complainant's trademarks cited above is entirely reproduced and recognizable in the disputed domain name. Moreover, the disputed domain name is nearly identical to the Complainant's trademarks HOTEL BB and HOTELBB, from which it differs only for the addition of a hyphen between the terms "hotel" and "bb" and the gTLD ".online", which shall be disregarded under the first element confusing similarity test. See section 1.11 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to trademarks in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is well established that the burden of proof lies on the Complainant. However, satisfying the burden of proving a lack of the Respondent's rights or legitimate interests in respect of the domain name according to paragraph 4(a)(ii) of the Policy is potentially onerous, since proving a negative can be difficult considering such information is often primarily within the knowledge or control of the Respondent.

Accordingly, in line with previous UDRP decisions, it is sufficient that the Complainant show a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see, *i.e.*, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455; *Banco Itau S.A. v. Laercio Teixeira*, WIPO Case No. [D2007-0912](#); *Accor v. Eren Atesmen*, WIPO Case No. [D2009-0701](#)).

In the case at hand, the Complainant has made a *prima facie* case and the Respondent has failed to raise any convincing circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

According to the evidence on record, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain name.

Moreover, there is no element from which the Panel could infer the Respondent's right over the disputed domain name, or that the Respondent, whose name disclosed in the Registrar's Whois records for the disputed domain name is Robert Majeric, might be commonly known by the disputed domain name.

The Panel also finds that the Respondent's use of the disputed domain name does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

In view of the Respondent's redirection of the disputed domain name to a website where it has been offered for sale at amounts exceeding the out-of-pocket costs, and considering the lack of any explanation by the Respondent as to the reason why it registered the disputed domain name corresponding to the Complainant's prior trademarks and domain name <hotel-bb.com> – besides the fact that it was available and the Respondent was willing to sell it to companies in the hospitality industry, as indicated in the Respondent's reply to the Complainant's cease and desist letter, submitted as Annex 3 to the Complaint -, the Panel finds that, on balance of probabilities, the Respondent registered the disputed domain name to trade upon the reputation of the Complainant's trademarks and attempt to derive profit from the sale of the

disputed domain name, to the Complainant or one of its competitors, at amounts exceeding the mere registration and maintenance fees.

Thus, in light of the above, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

As to bad faith at the time of the registration, the Panel notes that, in light of the prior registration and use of the Complainant's trademarks in connection with the hotel services of the Complainant and considering the widely known character of the Complainant's trademarks in Europe, the Respondent was or could have been aware of the Complainant's trademark when registering the disputed domain name.

Moreover, as highlighted above, the Respondent has not provided any element to demonstrate rights or legitimate interests in the disputed domain name and has not denied knowledge of the Complainant's trademarks. Indeed, the Respondent stated that it intended to sell the disputed domain name to companies in the hospitality industry and a mere verification on search engines would have revealed the existence of the Complainant's trademarks, used since several years in this specific sector.

Given the circumstances of the case and of the clear confusing similarity of the disputed domain name with the Complainant's prior trademarks and domain name <hotel-bb.com>, the Panel finds that the Respondent, on balance of probabilities, registered the disputed domain name with the Complainant and its trademarks in mind.

In view of the above and the Respondent's offers for sale of the disputed domain name made directly in response to the Complainant's cease and desist letters and on the website to which the disputed domain name resolves, the Panel finds that, on balance, the Respondent registered the disputed domain name with the primary purpose of selling it to the Complainant or one of its competitors at amounts exceeding the related out-of-pocket costs, according to paragraph 4(i) of the Policy.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to paragraph 4(a)(iii) 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 <hotel-bb.online> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: March 8, 2022