

ADMINISTRATIVE PANEL DECISION

Belfius Bank S.A. / Belfius Bank N.V. v. de baart thomas
Case No. D2022-1846

1. The Parties

The Complainant is Belfius Bank S.A. / Belfius Bank N.V., Belgium, internally represented.

The Respondent is de baart thomas, Netherlands.

2. The Domain Name and Registrar

The disputed domain name <belfius-verification-session.online> is registered with Ligne Web Services SARL (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 23, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 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 May 26, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On May 26, 2022, the Center transmitted an email in English and French to the Parties regarding the language of the proceeding. The Complainant filed an amended Complaint in English on May 31, 2022. The Respondent did not comment on the language of the proceeding.

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 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 24, 2022.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on July 4, 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 Belgium bank and financial services provider, purchased by the Belgian State in 2011.

For the purpose of the Complaint, the Complainant relies on, among other, the following trade mark registrations (annexes 4 to 5 to the Complaint):

- European Union trade mark registration n°10581205 BELFIUS in classes 9, 16, 35, 36, 41, and 45, filed on January 23, 2012, and registered on May 24, 2012.
- Benelux trade mark registration n°1240452 BELFIUS in classes 9, 16, 35, 36, 41 and 45 filed on January 23, 2012, and registered on May 10, 2012.

The disputed domain name <belfius-verification-session.online> was registered by the Respondent on December 8, 2021.

Presently no active webpage resolves from the disputed domain name.

5. Parties' Contentions

A. Complainant

I. As regards the language of the procedure

The Complainant provided arguments in support of its contentions to get English as the language of proceedings.

The Complainant argues that there are no indications that conducting the proceedings in English would be disadvantageous to the Respondent, while substantial delays and additional expenses would occur if the translation of the Complaint was required. Finally, it claims that Panels have in past decisions accepted dual language proceedings, accepting that the complaint is filed in English and respondents' pleadings and accompanying documents are submitted in the language of the Registration Agreement.

II. As regards the substance

The arguments of the Complainant on the three elements of the Policy can be summarized as follows:

First, the Complainant claims that the disputed domain name is confusingly similar to its trade marks as the disputed domain name incorporates the Complainant's trade mark BELFIUS combined with the terms "verification" and "session". These additions strengthen the association with the Complainant and its trade mark BELFIUS, as they obviously refer to the activities of the Complainant. The Complainant further claims that BELFIUS is distinctive and famous.

Second, the Complainant asserts that:

- i. the Respondent is not affiliated with, nor authorized by, the Complainant in any way, not having been granted authorization or license to make any use of the Complainant's trade mark, or to apply for the registration of the disputed domain name;

- ii. the Respondent has no trade mark rights on BELFIUS and does not seem to carry out any activity; and
- iii. the disputed domain name is inactive. This shows a lack of a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Third, on the issue of bad faith, the Complainant claims that the Respondent thus either knows or should have known of the Complainant's trade mark or else exercised a kind of willful blindness. Finally, regarding the use of the disputed domain name in bad faith, the Complainant indicates that "at the moment of the submission of the present Complaint, the Respondent clearly does not use or does not seem to have the intention to use the Disputed Domain Name for purposes of *bona fide* offering of goods and services over the Internet. As the Respondent does not own any rights and does not have any legal interest in the domain name, it cannot pretend that it will use the Disputed Domain Name in good faith."

B. Respondent

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

6. Discussion and Findings

I. As regards the language of the procedure

The Panel is seized with a request that the language of the present proceedings be English rather than French, even though French is the language of the registration agreement for the disputed domain name.

The Panel has the possibility to opt for a language of the proceeding other than the language defined in paragraph 11 of the Rules if it deems appropriate, provided that the Respondent apparently understands the language of the Complaint, or at least has had the opportunity to challenge this choice and has not done so, and that the choice of the language of the registration contract would unfairly disadvantage the Complainant, in particular due to translation constraints (see section 4.5 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

In this case, the Respondent is domiciled in the Netherlands and is very likely to understand English. Also, the Respondent has not challenged the Complainant's request. Besides, the association of the Complainant's trade mark BELFIUS to English expressions, "verification" and "session" (even though those are also French words), does not suggest that the Respondent is not familiar with the English language.

In view of these circumstances, the Panel grants the request of the Complainant that the language of the present proceedings be English. It would be an unnecessary burden for the Complainant to translate the Complaint.

II. As regards the substance

Paragraph 4(a) of the Policy requires that the Complainant prove all of the following three elements in order to be successful in these proceedings:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights over the trade mark BELFIUS.

The disputed domain name incorporates the Complainant's trade mark with the addition of two hyphens and the terms "verification" and "session". This addition does not prevent the disputed domain name from being confusingly similar with the trade mark BELFIUS, which remains immediately perceived (see [WIPO Overview 3.0](#), section 1.8).

In addition, previous decisions have already found that the addition of "verification" (see *Instagram, LLC v. Registration Private, Domains By Proxy LLC/ sezer suat*, WIPO Case No. [D2022-0157](#)) or "sessions" (see *Confédération Nationale du Crédit Mutuel v. Alain Myszka, Raphael Gabri, Guillaume Legrand, Remi Gaillard, Remi Yadari*, WIPO Case No. [D2014-0102](#)) to a mark, does not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondent's rights or legitimate interests in the disputed domain name. These circumstances are:

- i. before any notice of the dispute, the Respondent's use of, or 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; or
- ii. the Respondent (as individuals, businesses, or other organizations) has been commonly known by the disputed domain name, in spite of not having acquired trade mark or service mark rights; or
- iii. the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a *prima facie* case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent which has not been commonly known by the disputed domain name and is not affiliated with the Complainant nor has it been licensed or otherwise permitted to use any of the Complainant's trade mark or to register a domain name incorporating the trade mark BELFIUS. Also, according to the evidence submitted by the Complainant, the inactivity of the disputed domain name is evidence that it is not being used for a *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the third element of paragraph 4(a)(iii) of the Policy, a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy lists a number of circumstances which, without limitation, are deemed to be evidence of the registration and use of a domain name in bad faith. These are:

- (i) circumstances indicating that [a respondent has] registered or acquired a disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant or to a competitor of the complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) [the respondent has] registered the disputed domain name in order to prevent the complainant from reflecting the complainant's trade mark or service mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website 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 respondent's] website or location or of a product or service on [the respondent's] website or location.

Indisputably, the disputed domain name was specifically designed to target the Complainant. Indeed, it combines the trade mark BELFIUS, which is both inherently distinctive and well-known in the Benelux, with words that evoke the Complainant's activities. Indeed, as a whole the combination "belfius verification session" is very likely to be perceived by the public as a reference to the online tool through which a client can confirm his/her payment, or to a website where he/she could confirm his/her identity to access his/her personal and financial details.

Therefore, the Panel finds that the disputed domain name was registered in bad faith.

Regarding the use of the disputed domain name, the Complainant relies on the doctrine of bad faith passive holding. In the opinion of this Panel, the conditions for a finding of bad faith passive holding are satisfied in this case (see [WIPO Overview 3.0](#), section 3.3). Indeed, the Respondent can hardly ignore the existence of the trade mark BELFIUS of the Complainant in the field of banking services. This presumption of knowledge is confirmed by the configuration of the disputed domain name, as explained above. Hence, the Panel cannot foresee any possible legitimate use of the disputed domain name: the connection is too obvious. The disputed domain name will be perceived by Internet users as hosting webpages allowing connections to the private areas facilitated by the Complainant.

Accordingly, the third element set out in paragraph 4(a) of the Policy is also satisfied.

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, <belfius-verification-session.online> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: July 18, 2022