

## **ADMINISTRATIVE PANEL DECISION**

**B&B Hotels v. Kevin Bryan**  
**Case No. D2023-0328**

### **1. The Parties**

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

The Respondent is Kevin Bryan, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <bandb-hotel-rome.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 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 (“Privacy service provided by Withheld for Privacy ehf”) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 30, 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 January 30, 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 February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 23, 2023.

The Center appointed John Swinson as the sole panelist in this matter on February 28, 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 French company that operates a chain of hotels under the brand B&B HOTELS. The Complainant has used this brand since 1990.

The Complainant has been offering hotels services, restaurants, temporary accommodation services and related booking services, including through the Internet, to a wide range of customers. The Complainant operates more than 500 hotels including in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic and Brazil.

The Complainant is the proprietor of several trademark registrations, including the following:

- European Union Trademark No. 004767323 for B&B HOTELS (device mark), registered on December 12, 2006, for services in class 43; and

- French Trademark No. 3182313 for BB-HOTEL (word mark), registered on August 29, 2002, for services in class 43.

The Complainant owns many domain names, including for example <hotel-bb.com>.

The Respondent did not file a Response, so little is known of the Respondent. According to the Registrar's records, the Respondent has an address in the United States.

The disputed domain name was registered on July 4, 2022.

The disputed domain name redirects to a website located at "www.rome-hotels.co" which enables the booking of hotels in Rome and rental cars.

The Complainant sent a cease and desist letter to the Registrar because the Respondent was using a privacy service, but did not receive a response.

#### **5. Parties' Contentions**

##### **A. Complainant**

In summary, the Complainant made the following submissions.

The assessment of confusing similarity should be made between the disputed domain name and the word part of the Complainant's B&B HOTELS trademark.

The disputed domain name consists solely of the Complainant's trademark taken in its entirety, with minor modifications such as a simple addition of the geographical term "Rome" which is descriptive and only refers to a geographical place, which corresponds to the city of Roma (Italy). The public is therefore likely to consider that the disputed domain name directs or is planned to direct to the website of hotels owned by the Complainant located in Rome.

The disputed domain name is almost identical to the Complainant's French trademark registration BB-HOTEL.

The Respondent does not own trademark rights for "bb" or "bb hotel", is currently not and has never been known under the name "bbhotel", and is not currently and has never been offering any goods or services under that name.

The Complainant has not licensed or authorized the Respondent in any way to use the Complainant's trademarks including B&B HOTELS, BB-HOTEL or BBHOTEL. The Complainant has never allowed the Respondent to register or to use the disputed domain name.

The disputed domain name is only used to benefit from the Complainant's brand reputation and mislead Internet's users into thinking that they have reached the Complainant's website. This is not *bona fide* use of the disputed domain name.

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 websites or locations, which is bad faith under Rule 4(b)(iv) of the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

As set out in Section 4 above, the Complainant has registered trademarks for BB-HOTEL and for B&B HOTELS.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the Top-Level Domain part of the domain name (e.g., disregarding the ".com" part of the domain name.)

Here, the disputed domain name includes the BB-HOTEL registered trademark in its entirety. The addition of the word “and” between the two “b”s (which is similar to the Complainant’s B&B HOTELS trademark), the addition of the word “Rome” (which relates to a location where the Complainant has hotels), and the addition of a dash, do not prevent a finding that the disputed domain name is confusingly similar to the Complainant’s BB-HOTEL registered trademark.

Additionally, the Panel notes that the symbol “&” cannot be included in a domain name, and so use of the word “and” in the disputed domain name is a logical replacement for the “&” symbol in the Complainant’s B&B HOTELS trademark.

The Complainant succeeds on the first element of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant’s allegations to support the Respondent’s lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name. The disputed domain name was registered many years after the Complainant established its trademark rights in BB-HOTEL and B&B HOTELS.

Use of the disputed domain name to divert to a website that competes with the Complainant and that is not branded as “bandb-hotel-rome” is not *bona fide* use of the disputed domain name.

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The disputed domain name includes the Complainant’s trademark and the word “Rome”, thus suggesting an association with the Complainant’s hotels in Rome. This strongly suggests that the Respondent was aware of the Complainant and registered the disputed domain name because of the Complainant’s reputation. The Respondent’s decision to register the disputed domain name is most likely motivated by an awareness of the Complainant and the Complainant’s trademark.

The disputed domain name resolves to a website that competes with the Complainant.

The Panel considers, absent any response or reply from the Respondent, that the Respondent’s use of the disputed domain name to divert to a website that competes with the Complainant, while disguising the Respondent’s identity via a privacy service, was also undertaken for the purpose of disrupting the Complainant’s business.

The Panel also considers that the Respondent, in using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to the website at “www.rome-hotels.co”, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or

endorsement of the “www.rome-hotels.co” website. Compare *Inter-Continental Hotels Corporation, Six Continents Hotels, Inc. v. Daniel Kirchof*, WIPO Case No. [D2009-1661](#).

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Complainant succeeds on 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 <bandb-hotel-rome.com> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: March 13, 2023