

PANEL DECISION

B&B Hotels v. Ali Elci, Ciproc Gmbh
Case No. DEU2022-0034

1. The Parties

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

The Respondent is Ali Elci, Ciproc Gmbh, Germany.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <bb-hotels.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is Ascio Technologies Inc.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 26, 2022. On October 26, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On October 28, 2022, the Registry 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 October 31, 2022, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 4, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 17, 2022. In accordance with the ADR Rules, paragraph B(3), the due date for Response was December 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 9, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on December 15, 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 ADR Rules, paragraph B(5).

4. Factual Background

The Complainant is a French company, B&B Hotels (Société par actions simplifiée), incorporated in 1990 and registered in the French Registry of Commerce. Its name, B&B Hotels, has been used as a brand, a commercial name, and a shop sign since as early as 1990. Since then, the Complainant has offered services relating to hotels, restaurants, temporary accommodation and related booking services, including through the Internet, to a wide range of customers. The Complainant operates more than 500 hotels worldwide in France, Germany, Italy, Spain, Portugal, Belgium, Switzerland, Poland, Austria, Slovenia, Czech Republic, and Brazil, of which more than 280 hotels are operating in France.

The Complainant has reached a leading position in the French market for budget hotels, with a turnover of more than EUR 280 million in 2019. Over the thirty years since B&B HOTELS has been in use, the Complainant has made major investments in the development of its services, marketing, and advertising its brand.

The Complainant owns several trademarks composed of the elements “bb” and “hotel(s)” in varied order.

The Complainant has rights, *inter alia*, in the following trademarks:

French trademark BB-HOTEL registration no. 3182313, filed on August 29, 2002;

French trademark BBHOTEL registration no. 3182311, filed on August 29, 2002; and

European Union trademark B&B HOTELS registration no. 004767323, registered on December 12, 2006.

The Complainant has also registered many domain names, as early as 1998, consisting of the elements “bb” and “hotel” combined (with or without hyphens), either under the format “bb-hotel” or “hotel-bb”. These include the domain names <bb-hotel.eu> (registration date: August 26, 2006), <bbhotel.eu> (registration date: August 26, 2006), <hotel-bb.eu> (registration date: August 26, 2006), and <hotelb2b.eu> (registration date: February 11, 2022), and <hotelbb.eu> (registration date: August 26, 2006).

The disputed domain name was registered on June 6, 2011, and currently is not active.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's registered trademarks; that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed in its Complaint, the Complainant must show that the requirements of paragraph B(11)(d)(1) of the ADR Rules have been complied with. That paragraph reads as follows: “[I]n an ADR Proceeding where the Respondent is the holder of a .eu domain name registration in respect of which the Complaint was initiated, that:

(i) The domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and; either

(ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or

(iii) The domain name has been registered or is being used in bad faith.”

In addition, paragraph B10(a) of the ADR Rules provides that:

“If a Party fails to comply with any of the time periods established by these ADR Rules or the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party”.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Complainant has established rights in the BB-HOTEL, BBHOTEL, and B&B HOTELS trademarks.

The disputed domain name consists of the BB-HOTEL trademark combined with the letter “s”. The addition of the letter “s” in the disputed domain name does not prevent a finding of confusing similarity between the Complainant’s trademark and the disputed domain name. The BB-HOTEL trademark remains clearly recognizable within the disputed domain name.

Pursuant to section 1.7 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))¹ which states: “In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. In addition, the .eu Top-Level Domain is disregarded under the first element confusing similarity test. See section 1.11 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds the disputed domain name to be confusingly similar to the BB-HOTEL trademark in which the Complainant has rights.

The Complainant has, therefore, satisfied the requirements of the first element of paragraph B(11)(d)(1) of the ADR Rules.

B. Rights or Legitimate Interests

The Complainant has further asserted that the Respondent is not known by the disputed domain name and does not hold any rights or legitimate interests to the disputed domain name.

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “bb-hotels” or by any similar name. The Respondent has no connection to or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. The Panel also notes disputed domain name is not only confusing similar to the Complainant’s BB-HOTEL trademark but also to the Complainant’s domain name <bb-hotel.eu>, which carries a risk of implied affiliation with the Complainant.

¹ Given the similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), the Panel will refer to the WIPO Overview of WIPO Panel Views on Selected UDPR Questions, Third Edition ([“WIPO Overview 3.0”](#)) if relevant to this proceeding.

These assertions are not contradicted by the Respondent. Should the Respondent have rights or legitimate interests to the disputed domain name, the Panel assumes that it would have advised the Panel of the same. As no response was filed and the Complainant's *prima facie* case has not been rebutted, the Panel therefore accepts that the Respondent does not have rights or legitimate interests to the disputed domain name.

In the absence of any submission on the issue from the Respondent, the Complainant has satisfied the second element of paragraph B(11)(d)(1) of the ADR Rules.

C. Registered or Used in Bad Faith

The Complainant has sufficiently met the criteria for the second condition under the paragraph B(11)(d)(1) of the ADR Rules, and it is therefore unnecessary for the Complainant to also satisfy the third condition.

Furthermore, it is not necessary for the Panel to examine the Complainant's assertions of the Respondent's bad faith registration or use of the disputed domain name.

This Panel notes however that the Complainant has provided sufficient arguments to also indicate the Respondent's bad faith in registering and using the disputed domain name.

Specifically, it appears that the Respondent has not used the disputed domain name for several years.

According to paragraph B(11)(f)(2)(ii) of the ADR Rules, this is an element from which bad faith can be demonstrated.

In addition, noting the confusing similarity between the disputed domain name and the Complainant's prior trademark BB-HOTEL and the domain name <bb-hotel.eu>, the Panel finds that the Respondent was most likely aware of the Complainant's trademarks and of the existence of the Complainant and its activity.

Finally, the Respondent has not responded to (nor denied) the assertions made by the Complainant in this proceeding.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith, and that consequently, the third condition of paragraph B(11)(d)(1) of the ADR Rules is fulfilled.

7. Decision

For the foregoing reasons, in accordance with paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <bb-hotels.eu> be transferred to the Complainant².

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: December 29, 2022

²(i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) The remedy sought is transfer of the disputed domain name to the Complainant. As the Complainant is established in France, it satisfies the general eligibility criteria for registration of the disputed domain name set out in set out in Article 3 of Regulation (EU) 2019/517.