

DECISION OF THE THIRD-PARTY DECIDER

Complainant / Domain name holder

Case no. 444166 / re-bel.be

1. The Parties

- 1.1. Complainant:
Belfius Bank NV
Address: Karel Rogierplein 11,
1210 Sint-Joost-ten-Node

Represented by:

Céline Janssenswillen en Marieke Roseeuw
Function: Company Lawyers
Address: Karel Rogierplein 11,
1210 Sint-Joost-ten-Node

- 1.2. Domain name holder:
Peter West
Address: Al Muraqqabat Street Deira 75,
1000 Dubai

2. Domain name

Domain name: **re-bel.be**
Registered on: March 14, 2022

Hereafter referred to as "the domain name".

3. Procedure

On, the Complainant filed a complaint with the Belgian Center for Arbitration and Mediation (Cepani).

The Complainant requests that the Disputed Domain Name

On June 15, 2022 the Third-Party Decider was appointed pursuant to art. 7.2 of the Cepani rules for domain name dispute resolution.

On June 22, 2022 the deliberations were closed pursuant to art. 13 of the Cepani rules for domain name dispute resolution.

In the absence of a response of the Domain Name Holder, the Third-Party Decider renders his decision based on the Complaint, Article 10 of the "Terms and conditions for .be domain name registrations" of DNS.be, entitled "Dispute resolution policy" (the "Policy"), and the Rules for Domain Name Dispute Resolution of CEPANI (the "Rules").

4. Factual Background information

4.1. The Complainant offers bank and financial services. The Complainant is the owner of the **trademark 'RE=BEL'**, used for services and activities of Belfius Bank, in particular the Belfius Bank's innovative investment and stock exchange platform, integrated in its Belfius-app. The Complainant declares that since the launch of this platform, the 'RE=BEL' trademark has been intensively used and promoted, especially in Belgium, inter alia through extensive online and billboard advertising campaigns for which the Complainant has made significant investments.

The trademark name and logo are protected by the Benelux trademark registrations, both in classes 36 and 38:

- n° 1427730, applied for on October 22, 2020 for the word mark RE=BEL
- n° 1442913, the figurative mark applied for on May 17, 2021 for the figurative mark RE=BEL



The Complainant is also the owner of a list of domain names with re-bel as a prefix :

- re-bel.app
- re-bel.broker
- re-bel.eu
- re-bel.finance
- re-bel.info

On March 28, 2022 and April 4, 2022, the Complainant has sent two cease and desist letters to the previous Domain name holder with the request to proceed with the transfer of the domain name.

4.2. The domain name provider of the Domain name holder replied on April 5, 2022 that he was instructed to negotiate the potential sale of the domain

name and requested the payment of an amount of 1.000 euros in exchange for the transfer of the domain name.

The complainant did not agree on this proposal and filed on May 5, 2022 a complaint with the Belgian Center for Arbitration and Mediation (Cepani).

- 4.3.** The Domain name has never been operational and the website associated with this Domain Name was not accessible.

5. Position of the parties

5.1. Position of the Complainant

The Complainant requests that the Disputed Domain name should be transferred to him.

The Complainant argues that :

- a) The domain name is identical (or is similar enough to cause a risk of confusion) to a trademark belonging to someone else.
- The domain name 're-bel' fully incorporates the name 're=bel', of which Belfius Bank NV is the trademark holder.
 - The ccTLD '.be' is not relevant for the analysis of whether the domain name is identical or confusingly similar to a trademark, because this is a necessary component of a domain name
 - The equal sign ('=') is an unauthorized character in every domain name. The name 're-bel' corresponds exactly to the spelling one would necessarily use as the domain name of the trademark 're=bel'.

Consequently, the first condition of Article 10, b, 1 of the General Terms and Conditions is fulfilled.

- b) The Domain name holder does not hold any rights or legitimate interest in relation to the domain name.
- He has no permission to use the trademark "RE=BEL"
 - He does not prove that he has a professional or other activity under the name 're-bel' or 're=bel'.
 - There is no content on the website to which the domain name resolves.
 - The fact that the website to which the Domain name resolves is still not in use after a clear request of the Complainant, especially when no argument is provided that would justify the use of the specific trademark of the Complainant, indicates bad faith.

Therefore, the Domain name holder has no legitimate interest in the Domain name and the second condition of art. 10, b, 1 of the General Terms and Conditions is fulfilled.

- c) The Domain name holder has acted with the intention of harming or taking undue advantage of a third party.

- The Domain name holder has no legitimate interest to use the trademark
- The Domain name holder has offered the domain name immediately for sale at the price of 1.000 EURO and did not oppose a transfer at all.

5.2. Position of the Domain name holder

The Domain name holder did not submit any response.

As the Complainant has pointed out, the Domain name holder has limited itself to claiming an amount of 1000 Euros for the transfer of the Domain name.

The Domain name holder has not put forward any argument to prove that he owns and uses the Domain name in a manner consistent with the terms and conditions of domain name registrations under the ".be" domain operated by DNS BE.

6. Discussion and findings

Pursuant to Article 16.1 of the *CEPANI rules for domain name dispute resolution*, the Third-Party Decider shall rule on domain name disputes with due regard for the Policy and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must provide evidence of the following:

- *"the Domain name holder is identical or confusingly similar to a trademark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Domain name holder has no rights or legitimate interests in the domain name; and*
- *the Domain name holder's domain name has been registered or is being used in bad faith."*

6.1. The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

6.1.1. The complainant is the owner of the following the Benelux trademark registrations, both in classes 36 and 38:

- n° 1427730, applied for on October 22, 2020 for the word mark RE=BEL
- n° 1442913, the figurative mark applied for on May 17, 2021 for the figurative mark "RE=BEL" (see point 4.1. hereabove).

Further, the Complainant is the holder of a list of domain names with re-bel as a prefix :

- re-bel.app
- re-bel.broker
- re-bel.eu
- re-bel.finance
- re-bel.info

6.1.2. On March, 14, 2022 the Domain name holder registered the domain name "re-bel.be"

6.1.3. The Third-Party Decider shares the opinion of the Complainant that the Domain Name is confusingly similar to the trademark "RE=BEL" owed by the Complainant on the basis that the equal sign ('=') is not a by dns.be authorized character. The Domain Name is also similar to the pre-existing domain names "re-bel" owned by the Complainant.

Furthermore, it is well established that the domain name extension ".be" can be disregarded in determining identity or confusing similarity. (CEPANI cases n° 444150, n°. 44123, n°. 44201, n°. 44082, and n°. 444132) Therefore, the addition of the ".be" is irrelevant to rule that there is no similarity with the trademark "re=bel" or with the other "re-bel" domain names owned by the Complainant.

Considering the above, the Third-Party Decider concludes that art. 10, b, 1), i) of the DNS Belgium Terms and conditions for .be domain name registrations, is met.

6.2. The Domain name holder has no right or legitimate interests in the Domain Name

6.2.1. It is established case law that it is sufficient for the Complainant to make it plausible that the Domain Name Holder has no rights or legitimate interests in the Domain Name to shift the burden of proof to the Respondent. (CEPINA case n° 444132).

6.2.2. In the case at hand the Domain Name Holder is domiciliated in 1000 Dubai, United Arab Emirates. As the Domain Name Holder has not responded to the claim of the Claimant, it is unclear what the Domain Name Holder awaits from a domain name ".be" and what interests whatsoever he could have in the Domain name at stake.

6.2.3. The website linked to the Domain Name is still not in use, even after a clear request of the Complainant, and no argument is provided that would justify the use of the specific trademark of the Complainant.

6.2.4. The Domain Name Holder also fails to mention, and thus to prove, for what purpose or activity the Domain Name is important to him.

6.2.5. Considering the above, the Third-Party Decider concludes that art. 10, b, 1), ii) of the DNS Belgium Terms and conditions for .be domain name registrations, is met.

6.3. The Domain name holder's Domain Name has been registered or is being used in bad faith

- 6.3.1. First and foremost, the Third-Party Decider notes that the Domain Name Holder does not provide an answer to the Complainant's arguments and demands. The lack of response by the Domain Name Holder to the arguments of the Complainant may be interpreted as an acknowledgment by the Domain Name Holder of the fact that there are no counter-arguments and that the allegations of the complainant are true, including as regards the allegations related to the registrant's domain name has been registered or is being used in bad faith.
- 6.3.2. Secondly, the Third-Party Decider notes that the Domain Name Holder does not use the Domain Name : the website linked to the Domain Name is not operational and even not "under construction". By lack of response of the Domain Name Holder it is, actually completely unclear what the purpose of registering of the Domain Name and the activity associated with this Domain Name is.
- 6.3.3. Taking into account the forgoing and the fact that the Domain Name Holder immediately after the complaint sent to him on March, 28, and April, 4, 2022 proposed on April, 5, 2022, to transfer the Domain Name at the price of 1 000 Euro, the Third-Party Decider rules that this set of facts is sufficient evidence of the registration of the Domain Name by the Domain Name Holder is made in bad faith and solely with the intention of making a profit from a transfer of this Domain Name.
- 6.3.4. Therefore, the Third-Party Decider concludes that art. 10, b, 1), iii) of the DNS Belgium Terms and conditions for .be domain name registrations, is met.

7. Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, **the Third-Party Decider hereby rules** that the domain name registration for the "**Re-bel.be**" domain name :

is to be transferred to the Complainant.

St. Pieters-Leeuw, 6 July 2022

Francis WALSCHOT
The Third-party Decider