



DECISION OF THE THIRD-PARTY DECIDER

Belfius Bank NV / IG P.H. Primary Holdings Ltd

Case no. 444176 / belfisu.be

1. The Parties

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

*Represented by Ms. Marieke ROSEEUW and
Ms. Constance DUMORTIER, company lawyers*

1.2. Domain Name Holder: IG P.H. Primary Holdings Ltd.
Iroon Polytechniou 22
1048 Nicosia
Cyprus

2. Domain Name

Domain name: belfisu.be
Registered on: 5 August 2022

*Hereafter referred to as the "**Domain Name**".*

3. Procedure

On 9 November 2022, the Complainant filed a complaint (the "**Complaint**") with CEPANI in accordance with the CEPANI Rules for Domain Name Dispute Resolution (the "**CEPANI Rules**") and the Dispute Resolution Policy of DNS Belgium, incorporated in its Terms and conditions for .be domain name registrations (the "**DNS Terms & Conditions**").

The Complainant requests the transfer of the Domain Name.

The Complaint was notified to the Domain Name Holder and the latter was invited to reply.

On 13 December 2022, CEPANI appointed the Third-Party Decider to settle the dispute involving the Domain Name.



No response was submitted by the Domain Name Holder in time.

On 20 December 2022, the deliberations were closed.

4. Factual Background information

The Complainant is a renowned Belgian bank and financial services provider with more than 5,000 employees and 650 agencies in Belgium. Although, as a 100% government owned bank, its activities are focused on the Belgian market, the Complainant asserts that it has a reputation beyond Belgium.

The Complainant started trading under the name "Belfius" since 2012 and owns several trademark registrations for *inter alia* banking and financial services, all filed and registered in 2012, including:

- EUTM No. 10581205 **BELFIUS**
- Benelux trademark No. 914650 **BELFIUS**
- Benelux trademark No. 915962 
- Benelux trademark No. 915963 

Furthermore, the Complainant owns the domain name registration for "belfius.be", which resolves to its official website where it offers banking and insurance services.

The Complainant also owns the domain name registration for "belfius.com", which resolves to a website intended for institutional partners and journalists, as well as many other domain names that include the word "BELFIUS" and redirect to its official website.

On 5 August 2022, the Domain Name Holder registered the Domain Name "belfisu.be", which does not resolve to an active website.

On 16 September 2022, the Complainant has sent a warning letter to the Domain Name Holder, urging the latter to transfer the Domain Name. On 26 September 2022 a reminder was sent. Both warning letters remained unanswered.

5. Position of the parties

5.1. Position of the Complainant

The Complainant contends that the Domain Name is virtually identical to the Complainant's registered trademarks and that this constitutes a case of "typosquatting", since the Domain Name is a slight and intentional misspelling of the Complainant's registered trademarks.

According to the Complainant, the Domain Name is likely to mislead internet users into thinking that the website linked to the Domain Name offers banking or insurance services.

The Complainant contends that the Domain Name Holder has no rights or legitimate interest in the Domain Name, as it has no prior trademark rights, nor any licence and it is not making any legitimate non-commercial or fair use of the Domain Name.

The Complainant argues that bad case is proven, taking into account the following circumstances:

- lack of legitimate interest;
- lack of response including any valid argument that might justify said use;
- in view of the substantial presence and (trademark) registrations by the Complainant, the Domain Name Holder should have known the Complainant's earlier rights;
- the Complainant's commercial activities would have shown from a simple good faith search, before registering the Domain Name;
- no use is made of the website which resolves from the Domain Name;
- this is a form of "typosquatting", which is generally used for bad faith purposes.

5.2. Position of the Domain Name Holder

The Domain Name Holder did not submit any response.

6. Discussion and findings

Pursuant to Article 16.1 of the CEPANI Rules, the Third-Party Decider shall rule on domain name disputes with due regard for the DNS Terms & Conditions and the CEPANI Rules.

Pursuant to Article 10(b)(1) of the DNS Terms & Conditions, 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

The Complainant has sufficiently established that it owns prior trademark rights with regard to the BELFIUS trademark, based on several registrations dating from 2012.

For the assessment of whether the Domain Name is identical or confusingly similar to the trademark(s), the suffix “.be” should not be taken into consideration (see CEPANI No. 444175, “coyotesystem.be” and No. 444140, “meguiarsshop.be”).

In comparison with the earlier BELFIUS trademark, the Domain Name (i) has an identical amount of 7 letters; (ii) consists of identical letters of which the first 5 letters are presented in the same order and (iii) only differs in the final two letters “U” and “S”, which are inverted.

The latter element of (intentionally) inverting the final two letters constitutes “typosquatting” (see CEPINA No. 44301, “beflius.be”), which in combination with the remaining identical elements, leads the Third-Party Decider to find that the Domain Name is confusingly similar to the Complainant's trademark(s).

Therefore, the first condition of Article 10(b)(1) of the DNS Terms & Conditions is fulfilled.

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

In principle, the Complainant bears the burden of proving that the Domain Name Holder has no rights or legitimate interests in the Domain Name.

However, it is settled case-law that the complainant must not be imposed the burden of proving a negative assumption. Its burden of proof is satisfied when, considering all the facts of the case, the Complainant could credibly state that it is unaware of any reason or circumstance which could be indicative of such a right or legitimate interest (see CEPANI No. 444167, “yslbeauty.be” and No. 444140, “meguiarsshop.be”). Furthermore, the Domain Name Holder is expected to cooperate and produce evidence of the existence of a right or a legitimate interest (see CEPANI No. 444140, “meguiarsshop.be” and No. 44334, “thomann.be”).

In the present case, the Complainant reasonably asserts that the Domain Name Holder does not have any rights or legitimate interests in the Domain Name.

There are no indications that the Domain Name Holder (i) has used the Domain Name or a similar name in connection with a *bona fide* offering of goods or services or made demonstrable preparations of such use; (ii) has been commonly known (as a business or organization) by the Domain Name; or (iii) is making a legitimate and non-commercial or fair use of the Domain Name.

Although the Domain Name Holder is best placed to provide proof of the contrary, it has not responded to the Complainant's warning letters and has not submitted a response to the Complaint. The Domain Name Holder has therefore failed to cooperate and produce evidence of legitimate interests, which would otherwise be expected from a party having such rights or interest and placed in the same position.

In view of these elements, the Third-Party Decider finds that the Domain Name Holder has no rights or legitimate interests in the Domain Name and that the second condition of 10(b)(1) of the DNS Terms & Conditions is fulfilled.

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

The third condition of Article 10(b)(1) of the DNS Terms & Conditions requires that the Complainant proves that the Domain Name was registered or used in bad faith.

Article 10(b)(2) of the DNS Terms & Conditions provides a list of circumstances which prove that the Domain Name is used or registered in bad faith. However, this list is non-exhaustive (see CEPANI No. 444175, "coyotesystem.be").

The notion of bad faith is broad and it is sufficient that the Domain Name has been registered in bad faith or that it is being used in bad faith, these two criteria being non-cumulative (see CEPANI No. 444140, "meguiarsshop.be").

Bad faith can be proven by any reasonable means, including presumptions and circumstances that indicate with a reasonable degree of certainty, that the Domain Name Holder knew, or ought to know, the Complainant's prior rights and nevertheless registered the Domain Name (see CEPANI No. 444140, "meguiarsshop.be" and No. 44068, "vueling.be").

In the present case, the Complainant sufficiently proves that the Domain Name was registered in bad faith, based on the following presumptions and circumstances, for which no proof of the contrary is presented:

- The Complainant's BELFIUS trademark is well-known in Belgium and beyond for banking services. This has already been confirmed in abundant case-law (see CEPANA No. 44301, "beflius.be" and No. 44442, "bitcoinbeflius.be" and WIPO Cases No. D2019-1984, "belfiius.com"; No. D2022-1080, "belfiussss.xyz"; No. D2022-0642, "belfiusbanquemobile.com et al" and No. D2021-2933, "vervallen-beflius.digital").
- The Domain Name Holder should at least have known about the Complainant's prior rights, as such knowledge is readily and easily obtainable through a simple browser search based on the search term "belfisu" (see WIPO Case No. D2022-0642, "belfiusbanquemobile.com et al").

- The nature of the services which are offered under the Complainant's BELFIUS trademark, i.e. banking services, and the fact that the Domain Name Holder's Domain Name constitutes a form of "typosquatting", i.e. intentionally inverting (the last) two letters of the trademark in the hopes of going unnoticed (see CEPINA No. 44301, "beflius.be"). This is a commonly used method to facilitate phishing fraud (see also WIPO Case No. D2021-2933, "vervallen-beflius.digital").
- There is no indication that the Domain Name Holder has any legitimate interest in using the Domain Name. Furthermore, no website is resolved from the Domain Name. This form of "passive holding" points to bad faith (see CEPINA No. 444166, "re-bel.be"; No. 444125, "mbm.be"; No. 44469, "myaxa.be" and No. 44250, "creditmutuelle.be") see WIPO Case No. D2021-2933, "vervallen-beflius.digital").
- Although not sufficient in itself, the lack of response by the Domain Name Holder to the Complainant's warning letters and to the Complaint may serve as circumstantial evidence for establishing bad faith (see CEPINA No. 444166, "re-bel.be" and No. 44301, "beflius.be").

In view of these elements, the Third-Party Decider finds that the Domain Name Holder has registered the Domain Name in bad faith and that the third condition of Article 10(b)(1) of the DNS Terms & Conditions is fulfilled.

7. Decision

Consequently, pursuant to Article 10(e) of the DNS Terms & Conditions, the Third-Party Decider hereby rules that the domain name registration for the "**belfisu.be**" domain name is to be transferred to the Complainant.

Ghent, 9 January 2023.

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Hannes ABRAHAM
The Third-party Decider