

**DECISION OF THE THIRD-PARTY DECIDER****Isabelle Grippa / Peter Red****Case Nr. 44460 - isabellegrippa.be****1. PARTIES****1.1. Complainant**

**Isabelle Grippa**, an individual with residence at 1060 Brussels (Belgium), Chaussée de Charleroi 110, represented by Morgane Caminiti, legal advisor.

**1.2. Respondent / Licensee**

**Peter Red**, an individual with residence at 00180 Helsinki (Finland), Bulevardi.

**2. DOMAIN NAME**

www.isabellegrippa.be (the “**Domain Name**”), registered on 18 August 2018.

**3. PROCEDURE**

1. On 5 November 2018, the Complainant submitted a complaint form to CEPINA. The Complainant requests the transfer of the Domain Name.
2. The Respondent did not file a response.
3. The undersigned was appointed by CEPANI as Third-party Decider to settle the dispute on 6 December 2018. On the same day, a copy of the file was forwarded to the Third-party Decider in accordance with Article 9 of the CEPANI Rules for Domain Name Dispute Resolution (the “**Rules**”).
4. Deliberations were closed on 14 December 2018.

#### 4. FACTUAL INFORMATION

5. The Complainant is a resident of Belgium. She is the general manager of Hub.brussels, an organisation supporting businesses in the Brussels area.
6. In an e-mail of 18 September 2018 to the .be registry operator DNS Belgium, the Complainant explains that she was the holder of the Domain Name from 2012 until 2018. The Complainant indicates that she forgot to renew the Domain Name in 2018.
7. The Domain Name was registered by the Respondent on 18 August 2018. The Respondent is a resident of Finland. The WHOIS lists an e-mail address of a privacy service.
8. Although the WHOIS indicates that the Respondent is a resident of Finland, queries of the Complainant were replied by Yuxiang Chen. The website to which the Domain Name refers appears to represent a Chinese company trading in construction machinery.
9. In an e-mail of 19 September 2018, Mr. or Mrs. Chen suggested to transfer the Domain Name to the Complainant for a price of 2.000 EUR. The Complainant rejected that demand and initiated these proceedings.

#### 5. POSITION OF THE PARTIES

10. The position of the Complainant is as follows:
  - The Domain Name is identical to a personal name in which the Complainant has rights: the Complainant's personal name is Isabelle Grippa.
  - The Respondent has no rights or legitimate interests in the Domain Name. There is no link between the Respondent and the Domain Name. The website is not related either.
  - The Domain Name has been registered or is being used in bad faith. The Respondent seeks payment of 2.000 EUR for the transfer of the Domain Name. There is no link between the Domain Name and the website. The Respondent is an individual, whereas Yuxiang Chen indicates in e-mail correspondence that the Domain Name is held by "*our company*" and he or she would have to check the price with "*his boss*".
11. The Respondent did not reply to the Complainant's arguments and contentions.

#### 6. DISCUSSION AND FINDINGS

12. Article 10(b)(1) of the Terms and conditions for ".be" domain name registrations operated by DNS Belgium (v6.1, hereinafter the "**Policy**") requires that the Complainant asserts and proves that each of the following requirements is met :



- (i) The registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company 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
- (ii) The registrant has no rights or legitimate interests in the domain name ; and
- (iii) The registrant's domain name has been registered or is being used in bad faith.

**6.1. Identical/ confusingly similar to a personal name in which the Complainant has rights**

- 13. It is not in dispute that the Complainant's personal name is Isabelle Grippa.
- 14. Personal names are referred to as a basis for action under the Policy in Article 10(b)(1)(i) of the Policy. They are protected under Belgian law as a personality right (see e.g. CEPINA 26 January 2011, Case N°. 44220, *mathieu.be*; CEPINA 11 October 2010, Case N°. 44207, *geens.be* and CEPINA 2 May 2002, Case N°. 4015, *filipdewinter.be* and the references cited therein).
- 15. Save for the suffix .be, which is irrelevant for the assessment of identity and/or similarity under the Policy (see CEPINA 23 May 2006, Case N°. 44082, *touringassurance.be*, §5.5 and the references cited therein), the Domain Name is identical to the personal name of the Complainant. The first requirement is satisfied.

**6.2. Rights and/or legitimate interest of the domain name holder**

- 16. The second requirement under the Policy is that the Domain Name holder has no right or legitimate interest in the Domain Name. While the Complainant carries the burden of proof, evidence of a negative fact cannot be required. The Complaint must provide serious indications that the Domain Name holder has no rights or legitimate interest in the Domain Name.
- 17. The Complainant argues that the Respondent has no rights or legitimate interests in the Domain Name, since there is no demonstrable link between the Respondent's activity and the Domain Name. The exhibits submitted by the Complainant show that the website to which the Domain Name is directed has no apparent connection with "Isabelle Grippa".
- 18. Article 10(b)(2) of the Policy is a non-exhaustive list of circumstances that the Respondent can rely on to establish rights and/or a legitimate interest in the Domain Name. In this case, the Respondent has not provided arguments, let alone evidence, of rights or legitimate interests in the Domain Name. The record does not provide indications that any of the circumstances listed in Article 10(b)(2) apply either.

19. On balance, the Third Party Decider considers that the second requirement is satisfied.

**6.3. Registration and/or use in bad faith**

20. The third requirement under the Policy is that the Domain Name has been registered or that it is being used in bad faith by the Respondent. Article 10(b)(2) of the Policy provides a (non-exhaustive) list of circumstances to establish bad faith.

21. Included in that list are “*circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs directly related to the acquisition of the domain name*”. While the Domain Name holder appears to have taken plenty of efforts to conceal his identity, he is refreshingly candid with his offer to transfer the Domain Name to the Complainant for 2.000 EUR. That price is well in excess of the costs directly related to the registration of the Domain Name.

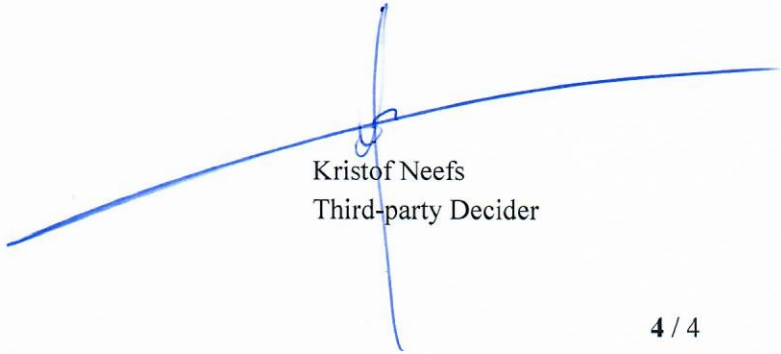
22. Another is that “*the registrant has registered one or more personal names without the existence of a demonstrable link between the registrant and the registered domain names*”. There is no link between the Domain Name and the named registrant in the WHOIS register (i.e. the Respondent). Nor can any link be established with the website to which the Domain Name directs.

23. These circumstances are enough for a finding of bad faith in accordance with Article 10(b)(1)(iii) of the Policy.

**7. DECISION**

24. In accordance with Article 10(b)(1) of the Terms and conditions for “.be” domain name registrations operated by DNS Belgium, the Third-party Decider orders that the domain name registration for “isabellegrippa.be” is transferred to the Complainant.

Mechelen, 2 January 2019



Kristof Neefs  
Third-party Decider