DECISION OF THE THIRD-PARTY DECIDER

WELLS FARGO & COMPANY/DOMAIN NAME LIMITED

Case no. 44270: wellsfargo.be

1. The parties

1.1. Complainant: WELLS FARGO & COMPANY, ATTN: Carrie A. Hefte
1700 Wells Fargo Center, MAC N9305-176, Sixth and Marquette
MN 55479 Minneapolis, USA

Represented by:

Ms. Felicia J. BOYD
Attorney at law
225 South 6th Street, Ste. 2800
MN 55402 Minneapolis, USA

1.2. Licensee: DOMAIN MANAGER LIMITED
(Person to be contacted: Domain Admin)
95, Kent Road, Grays, RM17 6 DE Essex, United Kingdom

2. Domain name

Domain name: "**wellsfargo.be**"

Registered on: March 31, 2012

hereafter referred to as "the domain name ".

3. Background of the case

On May 9, 2012, the Complainant submitted a complaint with the Belgian Centre For Arbitration and Mediation (CEPANI-CEPINA) against the Licensee seeking the transfer of the domain name.

The Complaint Manager has duly notified the Licensee of the Complaint.

The Licensee has not submitted any response within twenty-one calendar days of the date of commencement of the proceeding.

Pursuant to Article 12 of the *CEPANI Rules for Domain Name Dispute Resolution*, the deliberations were closed on June 22, 2012.

4. Factual information

The Complainant is an American diversified financial services company, providing worldwide banking, insurance, investments, mortgages, the Internet and other distribution channels in the United Kingdom, Ireland and Germany.

The Complainant sets out to be a leading international company, active since 1852, employing moreless 272.000 persons and representing 27 million customers.

The Complainant is the owner of the international trademark "WELLSFARGO", registered under no. 1 016 532, for good and services of class 36.

According to the certificate of registration enclosed to the complaint, the registration is valid until August 4, 2019.

The Complainant is also holding several other valid registrations of the trademark "WELLSFARGO"[1] and holds the domain name "wellsfargo.com" since 1994.

The Licensee registered the disputed domain name "wellsfargo.be" on March 31, 2012.

No response or any observations have been filed by the Licensee.

---

[1] International Register : no 831 052 ; European Community (nos. 2339901 and 2341204) ; United Kingdom (nos. 932911, 954280, 987406, 1146590, 1273344 and 2463462).

5. Position of the parties

5.1. Position of the Complainant

The Complainant argues that the domain name "wellsfargo.be" is identical or confusingly similar with his trademark and tradename, that the Licensee has no legitimate interests in the domain since it is infringing upon his aforementioned rights and it has been registered in bad faith.

5.2. Position of the Licensee

The Licensee did not file any response or observations.

6. Discussion and findings

Pursuant to Article 15.1 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 10 (b) (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 licensee's domain name 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 licensee has no rights or legitimate interests in the domain name; and*
- *the licensee's domain name has been registered or is being used in bad faith."*

6.1. Identical or confusing similar to a name of a sign of the Complainant

The disputed name is identical to the prior trademark WELLSFARGO of the Complainant.

Pursuant to the jurisprudence, no consideration needs to be given to the suffix "be" while evaluating the issue of the identity or similarity (see among others 44076,44067,440059, 44054, 44053, 44003).

Therefore, the first condition stipulated under article 10 (b) (1) (i) of the terms and conditions of domain name registrations under the "b" domain name operated by DNS BE is fulfilled.

6.2. Rights and legitimate interests

Article 10, b, 3 of the terms and conditions for domain names registrations under the "be" domain operated by DNS BE stipulates that:

"If a complaint is filed, the Licensee can demonstrate his rights or legitimate interests to the domain name by the following circumstances:

- *prior to any notice of the dispute, the Licensee used the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or*
- *the Licensee (as an individual, business, or other organization) has been commonly known by the domain name, even if he has acquired no trademark; or*
- *the Licensee is making a legitimate and non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue".*

The Licensee did not demonstrate his rights or legitimate interests to the domain names by any of the elements mentioned above.

There is no evidence that the Licensee is using the domain name "wellsfargo.be" in connection with a bona fide offering of goods and services.

The Third-party decider rules that the Licensee has no rights or legitimate interests in the domain name.

The second condition of Article (b) (1) is therefore met.

6.3. Registration or use of the domain name in bad faith

In order to meet the third condition of Article (b) (1) of the DNS BE Policy, the Complainant must prove that the Licensee registered or used the domain name in bad faith.

Article 10 (b) (2) of the DNS BE Policy provides a non-exhaustive list of circumstances which prove that a domain name is registered or used in bad faith.

It appears from the facts that the disputed domain name was intentionally used to attract, for commercial gain, Internet users to the Licencee's website or other on-line location, by creating a likelihood of confusion at least with the famous and well known Complainant's trademark and trade name.

The aforementioned use constitutes a typical case of typo squatting.

The Third-party decider is therefore of the opinion that the third condition of Article (b) (1) is also 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 "**wellsfargo.be**" domain name is to be transferred to the Complainant.

Brussels, July 5, 2012

Laurent Van Reepinghen
The Third-party decider

ETAT DE FRAIS ET HONORAIRES N°77/2012

Dû à : Monsieur Laurent VAN REEPINGHEN
Avocat au Barreau de Bruxelles
Avenue Molière, 134/2
1050 BRUXELLES

Par : CEPANI asbl
Centre Belge d'Arbitrage et de Médiation
Rue des Sols, 8
1000 Bruxelles

Concerne : Dossier no. 44270 – « wellsfargo.be »

Frais d'intervention en qualité de « Tiers-décideur ».

Montant total : 1.240,00 € à verser sur le compte honoraires n° 001-4969489-61 avec la communication « CEPANI/77/2012 ».

Le 5 juillet 2012.

Laurent VAN REEPINGHEN

VAN REEPINGHEN

GROUPEMENT D'AVOCATS - LAW FIRM

Avenue Molière, 134/2
1050 BRUXELLES

Laurent VAN REEPINGHEN
Avocat

Madame Emma VAN CAMPENHOUDT
Conseiller
CEPANI asbl
Centre Belge d'Arbitrage et de Médiation
Rue des Sols, 8
1000 Bruxelles

Bruxelles, le 5 juillet 2012

Madame le Conseiller,

Concerne : File no. 44270 - « wellsfargo.be ».

Je vous invite à trouver en annexe, trois exemplaires originaux signés de la décision rendue ce 5 juillet courant dans l'affaire sous rubrique ainsi que ma facture.

Je vous en souhaite bonne réception et vous prie de croire, Madame le Conseiller, à l'expression de ma considération distinguée.

Laurent Van Reepinghen
lv@vanreepinghen.com

Annexes : 16 pages