Decision for dispute CAC-UDRP-103381

Case number	CAC-UDRP-103381
Time of filing	2020-11-10 10:55:02
Domain names	belrone.org

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Belron International Limited

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	Andrea Paul

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant (Belron International Limited) is the owner of several trademarks “BELRON”, inter alia EUTM no. 001482405 (Date of Application: 31.01.2000), Swiss TM Reg. no. P-470819 (Date of Application: 22.02.1999), Australian TM Reg. no. 1374083 (Date of Application: 26.07.2010), Canada TM Reg. no. TMA685627 (Date of Application: 15.08.2005), UK TM Reg. no. UK00002528558 (Date of Application: 13.10.2009) and UK TM Reg. no. UK00002012636 (Date of Application: 28.02.1995). The disputed domain name <belrone.org> was registered on September 19, 2020.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is the world’s largest dedicated vehicle glass repair and replacement company with approximately 29,000 employees in over 35 countries on 6 continents. In 2019 the Complainant served 18.2 million consumers with a turnover of 4228.1m EUROS and with a focus on service quality generating a very high level of customer satisfaction.

Complainant is the owner of the numerous trademarks “BELRON”, inter alia EUTM no. 001482405 (Date of Application: 31.01.2000), Swiss TM Reg. no. P-470819 (Date of Application: 22.02.1999), Australian TM Reg. no. 1374083 (Date of

Application: 26.07.2010), Canada TM Reg. no. TMA685627 (Date of Application: 15.08.2005), UK TM Reg. no. UK00002528558 (Date of Application: 13.10.2009) and UK TM Reg. no. UK00002012636 (Date of Application: 28.02.1995). The last two mentioned trademarks are valid in the UK where Respondent is located.

All of the above trademark registrations predate the registration of the disputed domain name. Due to the use, advertising and revenue associated with its trademarks worldwide, Complainant enjoys a degree of renown worldwide.

Complainant is also the owner of several domain names with the brand BELRON including <belron.com> (main website and used for e-mail) registered on July 14, 1998, <belron.net> (active website for intranet purposes) registered on November 1, 2001, <belron.ch> (used for e-mailing purposes of the IP team) registered on August 9, 2007 and <belron.org> (redirecting to <belron.com>) registered on February 7, 2007.

It is important to point out that Complainant's domain names <belron.com> & <belron.ch> are also used for e-mailing purposes; which is extremely relevant for this particular case since Respondent also took advantage of this inside knowledge at the moment of registering the disputed domain name and using it for phishing fraudulent activity.

The Complaint has been successful in previous UDRP Complaints such as CAC Nr.103105 Belron International Limited vs. Kevin Allen regarding the domain name <BELRN.COM> as well as the CAC Nr. 102533 Belron International Limited vs. Nicholas Sanders related to the domain name <BelronGroup.com> where the Panel confirmed the distinctiveness of the BELRON trademark as follows: "First, the trademark BELRON is distinctive and the Respondent is totally unrelated to it. These only circumstances already make it very unlikely that the Respondent registered the disputed domain name by chance".

a) THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR WITH COMPLAINANT'S BELRON TRADEMARKS

The disputed domain name incorporates a typo variant of Complainant's long established, registered trademark BELRON. The disputed domain name was carefully registered to visually and phonetically imitate Complainant's trademark but with the addition of the letter "e"; i.e. "BELRONE". In this sense, the addition of the letter "e" does nothing to alter the association with the Complainant's mark. With this, Respondent tried to confuse Complainant's employees with the only purpose to use the disputed domain name as a vehicle to access a link with potential malware. The conclusion that the disputed domain name is a typo-variant is confirmed by the fact that the Respondent has used the disputed domain name for fraudulent purposes as described below.

Furthermore, the addition of the generic Top-Level Domain (gTLD) ".org" does not add any distinctiveness to the disputed domain name. Therefore, the disputed domain name should be considered as confusingly similar to the trademark BELRON.

b) THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

Complainant has not authorized, licensed or permitted the Respondent to use the trademark BELRON or a variation thereof and there is no evidence that the Respondent has been or is commonly known by the disputed domain name or that it has interest over the disputed domain name or the major part of it.

The WHOIS information "Andrea Paul" is the only evidence in the WHOIS record, which relates Respondent to the disputed domain name. In this sense, the Respondent is located in the UK. When entering the terms "BELRON" and "UK" in the Google search engine, the returned results point to Complainant and its business activity. The Respondent could easily perform a similar search before registering the disputed domain name and would have quickly learnt that the trademarks are owned by Complainant and that the Complainant has been using its trademarks.

Respondent has not by virtue of the content of the website, nor by its use of the disputed domain name shown that they will be used in connection with a bona fide offering of goods or services.

There is no evidence that Respondent has a history of using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services. It is clear that Complainant has become a distinctive identifier associated with the term “BELRON.” and that the intention of the disputed domain name is to take advantage of an association with the business of Complainant.

b.1) FRAUDULENT ACTIVITY

The disputed domain name has been used with the purpose to affect Complainant’s business. Respondent sent on September 21, 2020 a phishing e-mail via the domain name <belrone.com> impersonating the Group Chief Financial Officer of Belron. The phishing e-mail included two attachments with a link to the following site: http://jxjq4h0jf0x.belrone.org/ where the disputed domain name is used. The e-mail was carefully prepared to confuse the recipient, who is a Complainant’s employee, by impersonating the identity of the sender. The e-mail used for the phishing attack was <name.surname>@belrone.com and the attachments included the disputed domain name.

To avoid further harm, Complainant took different administrative action and successfully acquired the phishing domain name <BELRONE.COM>.

Complainant notes that the fraudulent e-mail shows that Respondent appeared to know about the Complainants’ business structure, included the name of the Group Chief Financial Officer, partially adopted the language and writing style of the Complainant’s employee and used a design for the fraudulent e-mail which was similar to the Complainant’s house style, including the Complainant’s logo. It is also important to note that in the phishing e-mail Respondent used at the bottom of the phishing e-mail a signature similar to the signature used by the targeted Group CFO where the correct e-mail was used; i.e. <name.surname>@belron.com.

As previously indicated, the domain name <BELRON.COM> is used for promoting activities via the website but also it is used for e-mail purposes. Thus, by registering the disputed domain name using the typo variant combination “BELRONE.ORG”, Respondent not only took advantage of Complainant’s business structure but also adopted the language and style of Complainant’s employees and finally used the combination of the words within the disputed domain name with the only intention to confuse the e-mail recipients and achieve success in the fraud scheme by including a potential scam link.

As a consequence, on September 28, 2020 Complainant’s representative filed a takedown request before Respondent’s Registrar Google Domains asking them to immediately disable the DNS records associated to the disputed domain name.

This behavior is a clear confirmation that Respondent does not have rights or legitimate interest to use the disputed domain name.

b.2) THE WEBSITE

Depending on the browser where an internet user searches for the disputed domain name, the browser either shows an inactive website or a website with a “phishing warning” signal. Clearly, the Respondent is not known by the disputed domain name, nor has the Respondent made any known legitimate, non-commercial use of the disputed domain name. Moreover, as mentioned previously, Complainant had never authorized the Respondent to use its trademark or a variation thereof in any form. Therefore, the use of this disputed domain name cannot be considered as legitimate use.

c) THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

c.1) THE DISPUTED DOMAIN NAME WAS REGISTERED IN BAD FAITH

Complainant’s trademarks predate the registration of the disputed domain name and Respondent has never been authorized by Complainant to register the disputed domain name. It is clear that the use of the words “BELRONE” in the disputed domain name is a deliberate and calculated attempt to confuse Complainant’s employees and improperly benefit from the Complainant’s rights.

c.2) THE DISPUTED DOMAIN NAME IS USED IN BAD FAITH

Given the international reputation, the distinctive nature of BELRON trademarks and also the spear phishing attack, it is in all likelihood that Respondent was or should have been aware of the Complainant’s trademarks at the time it registered the disputed domain name.

c.3) FRAUDULENT ACTIVITY

The Disputed Domain Name has been used with the purpose to affect Complainant’s business as above explained. According to several UDRP decisions, fraudulent activity is a further evidence of bad faith. In our case, the disputed domain name was used to commit fraud and/or to attack Complainant’s business by sending a link with potential malware and this aspect confirms the registration and use in bad faith of the disputed domain name.

c.4) THE WEBSITE

As noted previously, the disputed domain name currently does not resolve to an active website. Some panels have found that the concept of passive holding may apply even in the event of sporadic use, or of the mere “parking” by a third party of a domain name.

Further, the inaction in relation to a domain name registration can also constitute a domain name being used in bad faith and any attempt to actively use the domain name would lead to confusion as to the source, sponsorship of the Respondent´s web site among the internet users who might believe that the web site is owned or in somehow associated with the Complainant.

Finally, Complainant’s trademark registrations predate Respondent’s domain name registration. These cumulative factors clearly demonstrate that Respondent should be considered to have registered and to be using the disputed domain name in bad faith. It is an established principle that the lack of active use of a domain name does not as such prevent a finding of bad faith.

c.5) PRIVACY PROTECTION

Before filing the UDRP Complaint, the identity of the Respondent was hidden through an identity protection service provider “Contact Privacy Inc. Customer 1248249016”.

To summarize, the trademark BELRON is a long-established mark in the dedicated vehicle glass repair and replacement services worldwide. Respondent bears no relationship to the trademarks and the disputed domain name has no other meaning except for referring to Complainant's name and trademark. There is no way in which the disputed domain name could be used legitimately by the Respondent; in particular taking into consideration the occurrence of the fraudulent phishing attack and/or inclusion of malware by Respondent against Complainant. Further, the disputed domain name is being passively held, an additional element of bad faith in accordance with the applicable cases described at this Complaint. Consequently, the Respondent should be considered to have registered and to be using the disputed domain name in bad faith.

The Complainant therefore requested the disputed domain name to be transferred to the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

The Complainant has established the fact that it has valid rights for the word trademarks “BELRONE” including the EUTM no. 001482405, Swiss TM Reg. no. P-470819 or UK TM Reg. no. UK00002012636, all of them registered on or before 2000. The disputed domain name has been registered on September 19, 2020, i.e. almost 20 years after the trademarks registration.

The only content of the disputed domain name (BELRONE) corresponds to the Complainant’s trademark (BELRON) with the addition of the letter “E”. The addition of the one letter to the end of the trademark does not change the overall impression of the designation as being connected to the Complainant and its trademark. Furthermore, the addition of the generic top level domain “.COM” does not change the overall impression of the designation as being connected to Complainant’s trademark.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to the Complainant’s trademark “BELRON” in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that (ii) the respondent has no rights or legitimate interests in respect of the domain name.

The Complainant has established a prima facie case (not challenged by the Respondent who did not filed any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant and there is no indication that the Respondent is commonly known by the term “BELRONE” or “BELRON” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. There is also no evidence, that the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Moreover, the internet browser either shows an inactive website or a website with a “phishing warning” sign when searching the disputed domain name. It seems that the disputed domain name is not used or is used for the “phishing” purposes only and such passive or fraudulent use cannot constitute a bona fide use and/or offering of goods or services.

The Panel therefore considers that the Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that (iii) the domain name has been registered and is being used in bad faith.

The Respondent has registered the disputed domain name which consists the full content of the Complainant’s trademark “BELRON”. There are no doubts that the Complainant’s trademark is distinctive and widely known and this could be easily verified by the Respondent before the registration of the disputed domain name. It could be therefore concluded that the Respondent had or should have the Complainant and its trademark in mind when registering the disputed domain name and therefore could not be in good faith when registering it.

The evidence presented by the Complainant doesn’t clearly show that the disputed domain name has been used for the

phishing purposes. The domain name used in the phishing e-mail presented by the Complainant was different from the disputed domain name (<belrone.com>) and there is no mention of the disputed domain name within the header of this e-mail. The Complainant didn't present the attachments that should be linked to the disputed domain name and the connection between the content of the linked website with the disputed domain name and the phishing e-mail has not been therefore established. The Panel is of the opinion that the phishing e-mail proves the fraudulent use of <belrone.com> domain and not the disputed domain name.

However, the disputed domain name redirects to a website that is inactive or has been blocked by the security service with the "phishing warning sign". One could therefore expect that the website has been used for some kind of illegal activity including phishing as stated by the Complainant.

Considering the (i) confusing similarity between the Complainant's trademark and the disputed domain name, (ii) long time between the registration of the Complainant's trademark and the disputed domain name, (iii) blocking of the website by the phishing warning sign, (iv) distinctiveness of the Complainant's trademark, (v) Respondent's identity hidden by the privacy protection service provider and (vi) the failure of the Respondent to submit a response or to provide any evidence of good faith use, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

Thus the Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel considers that the Complainant has shown that the disputed domain name <BELRONE.ORG> is confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BELRONE.ORG**: Transferred

PANELLISTS

Name	**JUDr. Petr Hostaš**

DATE OF PANEL DECISION 2020-12-09

Publish the Decision