

Decision for dispute CAC-UDRP-105727

Case number **CAC-UDRP-105727**

Time of filing **2023-08-24 12:38:25**

Domain names **mybelron.com**

Case administrator

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

Complainant

Organization **Belron International Limited**

Complainant representative

Organization **HSS IPM GmbH**

Respondent

Name **Carolina Rodrigues**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademarks for the name BELRON, among which the following:

- US TM no. 6134057 (Priority date: 8 August 2019);
- EUTM no. 001482405 (Priority date: 30 January 2000);
- Swiss TM Reg. no. P-470819 (Priority date: 21 February 1999);
- Australian TM Reg. no. 1374083 (Priority date: 26 July 2010);
- Canada TM Reg. no. TMA685627 (Priority date: 15 August 2005);
- UK TM Reg. no. UK00901944842 (Priority date: 8 November 2000).

The disputed domain name <mybelron.com> was registered on 23 February 2023

FACTUAL BACKGROUND

The Complainant is the world's largest dedicated vehicle glass repair and replacement company with approximately 29,000 employees in 37 countries on 6 continents. Only in 2022 the Complainant served 15 million consumers.

The Complainant is the registered owner of the trademark "BELRON", in different countries and continents. All of such trademark registrations predate the registration of the disputed domain name. Prior panels found the trademark BELRON is "distinctive and widely known" (CAC-UDRP-103381).

The Complainant is also the owner of several domain names that incorporate the trademark BELRON, namely <belron.com>, registered on 15 July 1998, and <mybelron.net>, registered on 21 October 2021.

No information is known about the Respondent, named Carolina Rodrigues, who registered the disputed domain name <mybelron.com> under a hidden identity through an identity protection service provided by Domains By Proxy, LLC.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant requests that the disputed domain name be transferred to the Complainant based on the following grounds:

Identical or confusingly similar

The Complainant states, that the disputed domain name fully incorporates the Complainants registered trademarks as the dominant element, along with non-distinctive term, "my" and the suffix ".com" which represent only a technical requirement of registration and does not change the overall similar impression the disputed domain and the Complainant's registered trademark leave.

No rights or legitimate interests

The Complainant submits that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Complainant states that depending on the browser and location, the disputed domain name resolves to a browser warning alert regarding a malicious website, a gambling website or other kinds of content and that the disputed domain name previously displayed a pay-per-click website with related links such as auto window replacement, window replacement, and auto windshield replacement.

In the view of Complainant there is no evidence that the Respondent has a history of using or is currently preparing to use the disputed domain name in connection with a bona fide offering of goods and services.

Furthermore, the Complainant has not found that Respondent was commonly known by the disputed domain name or that it has any interest in the domain name. To the best of its knowledge, the Complainant declares not having any connection to Respondent, nor authorized him to use its trademark.

Finally, the Complainant has not found any evidence that Respondent has made any known legitimate, non-commercial use of the disputed domain name.

Registered and used in bad faith

The Complainant submits further that the disputed domain name has been registered and used in bad faith in accordance with Policy, Paragraph 4(a)(iii).

According to the Complainant, the registered trademark significantly pre-date the registration of the disputed domain name and the Respondent must have been unequivocally aware of the BELRON trademark which come out as the first result in the Google search engine.

Finally, the Complainant indicates that the Respondent has registered the disputed domain name to drive internet traffic to generate more traffic to its own business. In particular, the Complainant points out that the disputed domain name used to resolve to a pay-per-click website showing related links. Based on that, according to the Complainant, the Respondent took advantage of Complainant's trademark by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's products, services, website, or location.

Given the submissions above, the Complainant maintains that the disputed domain name was registered and used in bad faith and that all elements of the Policy are satisfied.

RESPONDENT:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

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

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

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

1.

First, the Panel acknowledges that the Complainant has established rights in the BELRON trademark.

Regarding the alleged similarity of the disputed domain name and the Complainant's trademark BELRON the Panel find that the disputed domain name incorporates the trademark BELRON in its entirety and further notes that the addition of the descriptive terms "my" does not prevent a finding of confusing similarity but rather increase it given that it is a reflexive pronoun, which is typically used to differentiate between various product lines and services of the same producer.

Therefore, in view of the Panel, the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the BELRON trademark and in demonstrating that the disputed domain name is confusingly similar to its trademark.

2. Pursuant to paragraph 4(c) of the Policy, the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such a prima facie case is made, the Respondent carries the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the Complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the present case, the Complainant asserts that it has not authorized the Respondent to use its trademark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Moreover, the internet browser either shows malicious website, or a gambling website which is a sign of passive or fraudulent use that cannot constitute a bona fide use and/or offering of goods or services.

Thus, the Complainant has established its prima facie case with satisfactory evidence.

The Respondent did not respond to the complaint and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

3. As to the bad faith registration and use of the disputed domain name, the Panel finds that the Respondent’s conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraph 4(b)(i) of the Policy.

First, it is considered proven that when the Respondent registered the disputed domain name early in 2023, the BELRON trademark was already widely known and directly associated with the Complainant’s activities.

Given that as well as the extensive prior use of the Complainant’s trademark BELRON across the continents, in the Panel’s view, the Respondent should have been aware of the Complainant’s trademark when registering the disputed domain name.

The Respondent has provided no evidence to justify his registration of the disputed domain name. Given the foregoing, and taking into consideration that registration of the disputed domain name was made with a proxy service, it would be unreasonable to conclude that the Respondent, at the time of the registration of the disputed domain name, was unaware of the Complainant’s trademark, or that the Respondent’s adoption of the distinctive trademark BELRON was a mere coincidence.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant’s trademark rights.

Regarding the use of the disputed domain name in bad faith, the Panel concludes that the non-use of such disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding considering the totality of the circumstances as describe above.

Accordingly, the Panel finds that the disputed domain name was registered and are being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mybelron.com**: Transferred

PANELLISTS

Name Hana Císlerová

DATE OF PANEL DECISION 2023-09-28

Publish the Decision