Decision for dispute CAC-UDRP-106249

Case number	**CAC-UDRP-106249**
Time of filing	**2024-06-19 10:08:50**
Domain names	**belvest.online**

Case administrator

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

Complainant

Organization	**Griffeshield srl**

Complainant representative

Organization	**GriffeShield S.r.l.**

Respondent

Name	**yu qing qing**

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 owner of various trademark registrations for BELVEST, including the following:

- Italian trademark registration No. 390348, registered on January 17, 1986;
- International trademark registration No. 676422, registered on June 9, 1997;
- Canadian trademark registration No. TMA781800, registered on November 8, 2010; and
- United Kingdom trademark registration No. UK00801018142, registered on October 1, 2010.

The Complainant owns various domain name registrations, including the following:

- <belvest.it>, registered on July 22, 2002;
- <belvest.com>, registered on December 3, 2011;
- <belvest.fr>, registered on January 21, 2009;
- <belvest.org>, registered on December 2, 2008; and
- <belvest.asia>, registered on December 2, 2008.

FACTUAL BACKGROUND

The Complainant is an Italian apparel and fashion company founded in 1964. It is an haute couture company which primarily tailors and offers tailor-made suits for men. The Complainant's products are known outside Italy, especially in Great Britain, Germany, France, Switzerland, Japan, the United States, and Canada.

Today, the Complainant operates globally with stores across the world, including in Hong Kong and South Korea.

The Respondent is "yu qing qing" with address at "qing jiang pu qu jian kang xi lu 51 hao xin shi ji hao yuan 1 hao lou 3023 shi, huai an shi, jiang su, China".

The Respondent registered the disputed domain name on November 14, 2023. As at the time of filing of the Complaint, the disputed domain name resolved to a Dan.com webpage where it is being offered for sale for USD 1,450.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical 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.

LANGUAGE OF THE PROCEEDINGS

The language of the registration agreement is Chinese.

The Complainant has requested that the language of proceedings be English.

Having considered all circumstances of the case, the Panel has decided that it would be fair and equitable to all parties to have the language of the proceedings be English. In this regard, the Panel makes its decision on these grounds:

- The webpage to which the disputed domain name resolves is in English. Dan.com is a Dutch company owned by GoDaddy and therefore the Respondent has to have knowledge of English in order to redirect and offer for sale the disputed domain name on Dan.com.
- The Respondent's email address (premiumdomainseller@hotmail.com) and the disputed domain name contain words with meanings in English, which shows that the Respondent is familiar with the English language.
- The Complainant is Italian, and requiring Complainant to translate the Complaint into Chinese, which would incur additional expense and delay the proceeding.
- English is a widely-used language in international business.

The Respondent did not object to the request for the change of language.

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trade mark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns registered trademark rights in the word BELVEST.

The disputed domain name contains the entirety of the Complainant's BELVEST trade mark with no alterations. It is therefore identical to the BELVEST trade mark under the Policy.

The disputed domain name comprises the Complainant's BELVEST trade mark and the generic Top-Level Domain ("gTLD") ".online". It is well established that the gTLD is a standard registration requirement and disregarded when considering the issue of identity or confusing similarity between a complainant's trade mark and the domain name in dispute (see WIPO Overview 3.0, section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name.

The Complainant has provided evidence that it owns trademark rights in the BELVEST mark long before the date that the disputed domain name was registered. There is no evidence that the Respondent was licensed or otherwise authorised by the Complainant to use the Complainant's trade mark or to register the disputed domain name. Neither is there evidence that the Respondent is commonly known by the disputed domain name.

The Respondent did not submit a Response and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)).

The BELVEST mark is a famous mark and the Complainant had enrolled its trade mark with the Trademark Clearing house. Any third party that tries to register a domain name that contains a trade mark registered with the Trademark Clearinghouse would be immediately warned about the registered trademark rights that exist. Hence, the Respondent would have been fully aware of the Complainant's trademark rights in BELVEST when it registered the disputed domain name. It would be difficult for the Respondent to claim that it was unaware of the Complainant's BELVEST trade mark.

The Respondent registered the disputed domain name long after the Complainant registered the BELVEST trade mark. The disputed domain name is identical to the Complainant's trade mark which makes it highly probable that the Complainant and its mark were targeted. Further, the disputed domain name was being offered for sale for a sum of USD1,450, which is likely to be much higher than the Respondent's out-of-pocket registration costs. Past panels have found that the sale of a domain name for a sum that is considerably higher than the Respondent's likely out-of-pocket registration costs is a sign of bad faith under the Policy.

Given that the BELVEST mark is highly distinctive and famous, with the Complainant's long and extensive use in major cities across the world, it is not at all plausible that the Respondent was not aware of the Complainant and of its BELVEST trade mark prior to the registration of the disputed domain name. The Panel agrees that one cannot envisage any plausible good faith use to which the domain name may be put, and the Respondent's silence in this proceeding allows one to draw the relevant inference.

The Panel further notes that the Respondent's e-mail address is "premiumdomainseller@hotmail.com", which is indicative of the Respondent's ultimate intention in registering the disputed domain name.

The Respondent has failed to rebut any of the Complainant's contentions. Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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. **belvest.online**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2024-07-22

Publish the Decision