



BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

## DECISION OF THE THIRD-PARTY DECIDER

### BELFIUS BANK/SALAS

Case no. 44432: belfius-banking.be

#### 1. The parties

- 1.1. Complainant: BELFIUS BANK NV  
Pachecolaan 44  
1000 Brussels

*Represented by:*

Ms. Nathalie DELAERE  
Head of Tax & Legal  
Pachecolaan 44  
1000 Brussels

Ms Eva JOOSTEN  
Senior Legal Counsel  
Proprietary Corporate Affairs  
Pachecolaan 44  
1000 Brussels

E-mail: [Eva.Joosten@Belfius.be](mailto:Eva.Joosten@Belfius.be)

- 1.2. Domain name holder:

Ms Njaya SALAS  
Douala  
2376 DOUALA  
CAMEROON

E-mail: [njaya.salas@gmail.com](mailto:njaya.salas@gmail.com)

#### 2. Domain name

Domain name: "belfius-banking.be"

Registered on: May 17, 2017

CEPANI – NON-PROFIT ASSOCIATION

Stuiversstraat 8, B-1000 Brussels ● Telephone: +32 2 515 08 35 ● Fax: +32 2 515 08 75  
E-mail: [cepina@vbo-feb.be](mailto:cepina@vbo-feb.be) ● Website: <http://www.cepani.be>  
FORTIS BANK: 210-0076085-89 ● KBC: 430-0169391-20 ● BBL: 310-0720414-81

hereafter referred to as "the domain name ".

### **3. Background of the case**

On July 18, 2017, 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 Domain name holder 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 August 28, 2017.

### **4. Factual information**

The Complainant is a renowned Belgian company active on the Belgian market in financial and banking services under the trade name "BELFIUS" with more than 5.000 employees and over 650 agencies as well as government shareholdership.

The Complainant is the owner of :

- several trademarks containing "BELFIUS" including:

Benelux Office for Intellectual Property: word mark "BELFIUS" n° 0914650 ;  
European Union Intellectual Property Office : word mark "BELFIUS" n° 010581205.

- several domain names including : [www.belfius.be](http://www.belfius.be)

The Domain name holder registered the disputed domain name "belfius-banking.be" on May 17, 2017.

Complainant sought by means of a cease and desist e-mail dated 6 june 2017 adressed to both the Domain name holder as well as Domain name holder's registrar.

Domain name registrar agreed to Complainant's complaint and shut down the website.

However, Complainant did not receive any response form the Domain name holder

## 5. Position of the parties

### 5.1. Position of the Complainant

The Complainant argues that the domain name "belfius-banking.be" is identical or confusingly similar with his trademark and tradename and domain name "BELFIUS", that the Domain name holder 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 Domain name holder

The Domain name holder 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

Taking into account banking is one of Complainant's core activities, the disputed name - which makes the combination of "belfius" and "banking" is confusingly similar to the prior word trademarks and domain names of the Complainant.

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 Domain name holder (Licensee) did not demonstrate his rights or legitimate interests to the domain names by any of the elements mentioned above.

The Third-party decider rules that the Domain name holder 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 Domain name holder 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 that 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 Domain name holder 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.

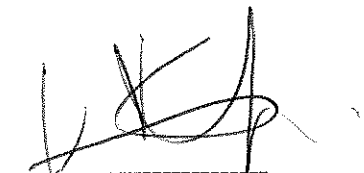
The use of a domain name that incorporates Complainant's trademark also constitutes trademark infringement and dilution as well as unfair competition. The use of Complainant's trademark in "belfius-banking" is a diluting use because it weakens the ability of the BELFIUS trademark and domain name to identify a single source, namely Complainant. Furthermore, the registration and use of the disputed domain name misleads consumers into believing that some association exists between Complainant and the Domain name holder, which tarnishes the goodwill and reputation of Complainant's product and services and trademarks.

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 "**belfius-banking.be**" domain name is to be transferred to the Complainant.

Brussels, September 11, 2017

A handwritten signature in black ink, appearing to be 'L. Van Reepingen', written over a horizontal dashed line.

Laurent Van Reepingen  
The Third-party decider