Decision for dispute CAC-UDRP-101703

Case number	CAC-UDRP-101703
Time of filing	2017-10-04 11:36:33
Domain names	FORTUNEO-GROUP.COM

Case administrator

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

Complainant

Organization	FORTUNEO

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	FORTUNEO GROUP

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 provided evidence that it is the owner of the following trademark registrations:

- FORTUNEO, International Reg. No. 738515, registered on 19.4.2000 in Classes 35, 36, 38, and 42

- FORTUNEO BANQUE Logo, International Reg. No. 1107662, registered on 29.12.2011 in Classes 35, 36, and 38

- FORTUNEO, French Reg. No. 99823905, registered on 19.11.1999 in Classes 35, 36, 38, 40, 41, 42, and 45

The Complainant also uses the domain names fortuneo.com and fortuneo.fr

FACTUAL BACKGROUND

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

Created in 2000, FORTUNEO is a subsidiary of the French Bank Crédit Mutuel Arkéa, and offers an online complete range of

products and services such as bank accounts, stock exchange, savings, life insurance, auto insurance, and real estate credit. The Complainant is the owner of several trademarks claiming the word FORTUNEO for its above-mentioned services. The Complainant also owns a number of domain names that include the word FORTUNEO. The word FORTUNEO is a distinctive term that has no meaning whatsoever in English, French or in any other language.

The disputed domain name <fortuneo-group.com> was registered on 19 September, 2017. This domain name was used to make phishing attacks by displaying a website that is highly similar to the Complainant's official website. The Complainant sent a phishing notification to the hosting provider for the <fortuneo-group.com> domain name on 22 September, 2017 and the website was subsequently blocked and made inactive.

The Respondent is not known by the name FORTUNEO, or affiliated with the Complainant and is not authorized in any way to use the FORTUNEO trademark.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

Trademark Rights and Confusing Similarity:

The Complainant has rights in the FORTNEO mark in relation to various banking and financial services by virtue of its owning several trademark registrations for this term.

UDRP panels have routinely found that a disputed domain name is confusingly similar to a complainant’s trademark where such domain name incorporates the complainant’s trademark in its entirety. Further, the Panel finds that the Disputed domain name's addition of a hyphen, the generic term "group" at the end of the FORTUNEO trademark, and the gTLD “.com” does not alter the confusing similarity between the Disputed domain name and the Complainant's trademark. In fact, the trademark FORTUNEO is the only distinctive part of the Disputed domain name.

Therefore the Panel finds, that the Disputed domain name <fortuneo-group.com> is confusingly similar to the Complainant’s FORTUNEO trademark under paragraph 4(a)(i) of the Policy.

Rights or Legitimate Interests:

The Complainant contends that the Respondent has used the Disputed domain name for phishing attacks on Complainant's

customers and that the <fortuneo-group.com> website copies many elements of Complainant's own website. This, it claims, is not use of, or demonstrable preparations to use the Disputed domain name in connection with a bona fide offering of goods or services. The Panel agrees with this conclusion. Such use of the Disputed domain name is also not a legitimate non-commercial or fair use of the domain name. Further, as the Respondent has chosen to use a Whois privacy service to hide its identity, and as it has failed to submit any Response in the present case, it is not possible for this Panel to determine whether the Respondent is commonly known by the Disputed domain name or by the name "Fortuneo".

With no Response from the Respondent, or any other information indicating the contrary, this Panel concludes that the Respondent has no right or legitimate interests in the Disputed domain name <fortuneo-group.com> under paragraph 4(a)(ii) of the Policy.

Bad Faith Registration and Use:

The Disputed domain name resolved to a website that reproduced the Complainant's trademark and website layout, but it no longer resolves to any website content after being blocked by the concerned hosting provider. The Panel accepts and agrees with the Complainant's assertion that Respondent registered the Disputed domain name with knowledge of Complainant's rights in the FORTUNEO trademark. Complainant obtained its trademark registrations many years before the Disputed domain name was registered and Complainant has used the mark for its own banking and financial services business since then. Respondent's use of the Disputed domain name to resolve to a website using a variation of Complainant's trademark and copying the overall look and feel of Complainant's own www.Fortuneo.com website is a clear indication that Respondent was aware of the trademarks of Complainant. It similarly demonstrates knowledge and targeting of Complainant and its trademark. Furthermore, this behavior appears to be an attempt at phishing or otherwise impersonating Complainant with the aim of having its customers engage with Respondent for improper purposes that are intended to result in commercial gain for the Respondent.

On these grounds, the Panel concludes that the Respondent has registered and is using the Disputed domain name <fortuneo-group.com> in bad faith under paragraphs 4(a)(iii) and 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FORTUNEO-GROUP.COM**: Transferred

PANELLISTS

Name	**Steven M. Levy, Esq.**

DATE OF PANEL DECISION 2017-11-03

Publish the Decision