Decision for dispute CAC-UDRP-102145

Case number	CAC-UDRP-102145
Time of filing	2018-09-04 09:42:26
Domain names	financogroupo.com

Case administrator

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

Complainant

Organization	Financo SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Claude josette dauchet

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 the French trademark registration No. 3747380 for FINANCO (word and device), filed on June 18, 2010, in classes 9, 16, 35, 36, 38 and 42.

The Complainant also owns of domain names including the mark FINANCO, such as <financo.eu> registered on March 20, 2006, and <financo.fr>, registered on March 18, 1998.

FACTUAL BACKGROUND

The Complainant was founded in 1986 and is a financial company specializing in consumer credit. It has 400 employees and is a subsidiary of the group Crédit Mutuel Arkéa.

The disputed domain name was registered on August 19, 2018 and has been redirected to the home page of the website at <simplesite.com>, specialized in website creation.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to its trademark FINANCO, since it contains the trademark in its entirety with the mere addition of the generic term “groupo” (which refers to the notion of corporate group) and the generic Top-Level domain “.com”.

The Complainant states that the Respondent has no rights or legitimate interests in the disputed domain name because: i) the Respondent is not commonly known by the disputed domain name, and has not acquired any rights on FINANCO; ii) the Respondent is not affiliated with nor authorized by the Complainant in any way and the Complainant has not granted any license or authorization to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name; iii) there is no dictionary meaning for the term FINANCO which forms the Complainant’s trademark, thus the value of the disputed domain name to the Respondent is its value as a trademark referring to the Complainant; iv) the disputed domain name redirects to the home page of the website at <simplesite.com>, specialized in website creation, thus the Respondent has not used, and has not made any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services or for noncommercial or fair use purposes.

The Complainant also submits that the Respondent registered and used the disputed domain name in bad faith for the following reasons: i) the addition of the term “groupo”, which refers to the term “group”, renders the disputed domain name even more confusingly similar to the Complainant’s registered trademark, because it causes an immediate association with the corporate group Credit Mutuel Arkea, of which the Complainant is a subsidiary; ii) the Respondent could not have ignored the Complainant’s trademark FINANCO at the time of the registration of the disputed domain name, which thus cannot amount to a mere coincidence; and iii) the Respondent, by redirecting the disputed domain name to the home page of the website at <simplesite.com>, specialized in website creation, has failed to use the disputed domain name and has not taken any active steps to use it.

RESPONDENT

The Respondent did not reply to the Complainant’s contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 that 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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark FINANCO, as it includes the core of the Complainant’s trademark in its entirety, with the mere addition of the term “groupo” (clearly referring

to the meaning of the English word “group”) and the Top-Level domain “.com” which, as stated in a number of prior decisions rendered under the UDRP, are not sufficient to exclude confusing similarity.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent has pointed the disputed domain name to an external web page providing website creation services under the sign “SimpleSite”. Therefore, the Panel finds that there is no evidence showing that the Respondent made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the disputed domain name. Therefore, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name and that, by not submitting a Response, the Respondent has failed to rebut the Complainant’s prima facie case.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant’s trademark, with which the disputed domain name is confusingly similar, and of the prior registration and use of the trademark FINANCO by the Complainant, the Respondent was more likely than not aware of the Complainant’s trademark at the time of the registration of the disputed domain name.

By pointing the disputed domain name to a landing page of a provider offering website creation services under its own trademark, the Respondent has in fact not used the disputed domain name in connection with an active web site. As established in a number of prior cases, the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and/or well-known trademarks; see i.a. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FINANCOGROUPO.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2018-10-22

Publish the Decision