Decision for dispute CAC-UDRP-102589

Case number	CAC-UDRP-102589
Time of filing	2019-07-25 12:59:53
Domain names	financo-credit-investment.com

Case administrator

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

Complainant

Organization	FINANCO

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	webo Master

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks including the term “FINANCO”:

- The French trademark PREFERENCE FINANCO® n°3385073 registered since October 11, 2005, notably in class 36 for financial-related services;

- The French trademark FINANCO® n°3747380 registered since June 18, 2010, notably in class 36 for financial-related services;

- The French trademark E-COFFRE FINANCO® n°3752546 registered since July 9, 2010, notably in class 36 for financial-related services.

The Complainant also the owner of several domain names including the term “FINANCO”, such as <financo.fr> registered and used since March 18, 1998 and <financo.eu> registered and used since March 20, 2006.

FACTUAL BACKGROUND

Founded in 1986, FINANCO is a financial company specializing in consumer credit. FINANCO is a subsidiary of a larger group: CRÉDIT MUTUEL ARKÉA. With 400 employees, FINANCO manufactures and distributes financial solutions tailored to individual projects and TPE.

The disputed domain name <financo-credit-investment.com> was registered on July 6, 2019 and redirects to a website offering loan and consumer credits.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant's contentions can be summarised as follows:

Past panels have confirmed the Complainant's rights in the mark "FINANCO":

- CAC Case No. 102451, FINANCO v. ADOC CONPANY <financo-bk.com>;

- WIPO Case No. D2019-0152, FINANCO S.A. v. Cachetel Fiossi, Association <financo-world.com>;

- CAC Case No. 102357, FINANCO v. interfinancemennt <financo-invest.com>;

- WIPO Case No. D2018-1559, FINANCO v. Ben Taurins <financo-credit.com>.

The disputed domain name <financo-credit-investment.com> is confusingly similar to the Complainant's trademark FINANCO, containing it in its entirety. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

The addition of the generic terms "CREDIT" and "INVESTMENT" and two hyphens is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark FINANCO. The addition of those terms increases the likelihood of confusion with the Complainant's trademark, because these terms refer to the Complainant's loan services.

Prior Panels have held that the addition of words can worsen the confusing similarity between a trademark and a domain name: for instance WIPO Case No. D2010-2124, Costco Wholesale Corporation and Costco Wholesale Membership, Inc. v. Kenneth Terrill: "The addition of certain words, as here, can "exacerbate […] the confusing similarity between the [Complainant's] trademark and the Domain Name and increase […] the risk of confusion between the Domain Name and the […] trademarks."

The addition of the generic Top-Level Domain suffix ".COM" does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trade mark: see WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

Thus, the disputed domain name <financo-credit-investment.com> is confusingly similar to the Complainant's trademark FINANCO.

The Respondent does not have any rights or legitimate interest in the disputed domain name.

According to the WIPO Case No. D2003-0455, “Croatia Airlines d.d. v. Modern Empire Internet Ltd.”, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Respondent is not commonly known by the disputed domain name, and has not acquired any rights in it. Indeed, past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name: Forum Case No. FA 96356, Broadcom Corp. v. Intellifone Corp.: Panel stated that the Respondent has “no rights or legitimate interests because the respondent is not commonly known by the disputed domain name or using the domain name in connection with a legitimate or fair use”.

The Respondent is not affiliated with nor authorized by the Complainant in any way.

The website in relation with the disputed domain name offers loan services which compete with the services provided by the Complainant. Past panels have held that using a domain name to offer related services to that of a complainant is not a use indicative of rights or legitimate interests. Forum Case No. FA 1659965, General Motors LLC v. MIKE LEE (“Past panels have decided that a respondent’s use of a domain to sell products and/or services that compete directly with a complainant’s business does not constitute a bona fide offering of goods or services pursuant to Policy paragraph 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy paragraph 4(c)(iii).”).

Accordingly, the Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name has been registered and is being used in bad faith.

The Respondent registered the disputed domain name <financo-credit-investment.com> which is confusingly similar to Complainant's FINANCO trademark many years after Complainant had registered it. Moreover, the word "FINANCO" has no meaning in any language. The Respondent uses the disputed domain name to promote competing services. Indeed, the disputed domain name redirects to a website providing financial services such as consumer loan or personal loans which compete with the services offered by the Complainant.

The Respondent could not have been ignorant of the Complainant’s trademark FINANCO at the moment of the registration of the disputed domain name which cannot be a coincidence.

Using a domain name in order to offer competing services has often been held to disrupt the business of the owner of the relevant mark in bad faith: Forum Case No. FA 768859, Instron Corporation v. Andrew Kaner c/o Electromatic a/k/a Electromatic Equip't ("Complainant asserts that Respondent registered and is using the disputed domain names to disrupt Complainant’s business, because Respondent is using the disputed domain names to operate a competing website. The Panel finds that Respondent has registered and used the disputed domain names in bad faith according to Policy paragraph 4(b)(iii).").

By using the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location, as mentioned by Policy, paragraph 4(b) (iv). Forum Case No. 94864, Southern Exposure v. Southern Exposure, Inc. ("The Respondent is using the domain name to attract Internet users to its website by creating confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Complainant’s website. Policy paragraph 4(b)(iv). The Respondent registered and used the domain name in question to profit from the Complainant’s mark by attracting Internet users to its competing website. This is evidence of bad faith.").

The Respondent has registered and is using the disputed domain name in bad faith.

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

The disputed domain name consists of the Complainant's trade mark FINANCO (registered, inter alia, in France since 2010 for financial services) with the addition of the generic words 'credit' and 'investment', two hyphens and the gTLD.com none of which prevents the confusing similarity between the disputed domain name and the Complainant's mark.

The disputed domain name registered in 2019 points to a site offering competing financial services not associated with the Complainant. This is not a bona fide offering of goods or services or a non- commercial legitimate or fair use. It is registration and use in bad faith as it is confusing Internet users for commercial gain and disrupting the Complainant's business.

Accordingly the disputed domain name has been registered and used in bad faith under Policy 4 (b)(iii) and (iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FINANCO-CREDIT-INVESTMENT.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2019-08-22

Publish the Decision