Decision for dispute CAC-UDRP-103001

Case number	CAC-UDRP-103001
Time of filing	2020-04-07 10:27:52
Domain names	bcfoi.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	SOCIETE GENERALE

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	juan marco garcea

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 registered owner of a French combined trademark BFC, No. 3894516 with the priority date from 6 February 2012.

The trademark has been registered for the goods and services in classes 9, 16 and 36 of the International Nice Classification.

FACTUAL BACKGROUND

The Complainant is a French company founded in 1864 operating as a multinational banking and financial services company. Since 2003, the Complainant owns jointly with the Mauritius Commercial Bank, the bank Banque Francaise Commerciale Ocean Indien which has the main office in Saint Denis, Réunion and primarily engages in private banking.

Since 6 February 2012, the Complaint owns a French combined trademark BFC, No. 3894516. The trademark distinguishes the goods and services related to the banking products and services in classes 9, 16 and 36 of the International Nice Classification.

The Respondent is an individual named Juan Marco Garcea, resident of the city Cotonou in Benin. The Responded registered the disputed domain name <bcfoi.com> on 13 November, 2019. The domain name in dispute points to the webpage of the bank “Banque des Crédit et Finances des Organismes Internationale – BCFOI”.
Any other information is not known about the Respondent who has not submitted any Response and thus has not contested any of the contentions made by the Complainant.

PARTIES CONTENTIONS

COMPLAINANT' CONTENTIONS:

Identical or confusingly similar

The Complainant argues that the disputed domain name <bcfoi.com> and the Complainant's registered trademark BFC are confusingly similar. The Complainant contends also that the disputed domain name <bcfoi.com> is confusingly similar with the domain name < bfcoi.com > registered by the Complainant on 29 June, 1998.

The Complainant’s principal argument regarding comparison between its trademark, domain name < bfcoi.com > and the disputed domain name, is that the denominations consist of the same letters and that the inversion of letters “C” and “F” in the disputed domain name is not sufficient to avoid the likelihood of confusion.

Moreover, according to the Complainant, the disputed domain name <bcfoi.com> is intended for the online banking services which are similar to the services provided by the Complainant.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making any businesses under the name BCFOI. Moreover, the Complainant states that the Responded has not publicly stated in any way that no relationship exists between him and the Complainant’s business.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that the Respondents choose to register the disputed domain name to create a confusion with the Complainant’s business and trademark BFC.

Since the disputed domain name redirects to the webpage in which the banking services are offered and given that there is no evidence at all about the operation of “Banque des Crédit et Finances des Organismes Internationales”, the Complainant considers that the Respondent has registered the domain name in dispute to attract Internet users for commercial gain to his own websites thanks to the Complainant’s trademark, which is an evidence of bad faith.

RESPONDENT'S CONTENTIONS:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant failed to establish 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

Given the Panel's finding on the first element of the Complaint, it is unnecessary to assess the Respondent's rights or legitimate interests in the disputed domain name.

BAD FAITH

It is also unnecessary to weigh the Complainants' allegations of bad faith, since the Complainant has not established that its trademark is confusingly similar to the domain name in dispute.

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 Complainant, has provided sufficient evidence that he has registered trademark BFC in France and holds a domain name < bfcoi.com >. The Complainant has not provided evidences of having rights on any other denomination, whether registered as a trademark or protected as unregistered name.

The paragraph 4(a)(i) of the Policy states that "the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights". While using the term "trademark or service mark", the Panel considers that the paragraph 4(a)(i) of the Policy does not encompass the Complainant's right in a domain name unless it refers to a name which has been used as a trademark-like identifier in trade or commerce.

Since the Complainant has not provided any evidences that the denomination BFCOI has been used in a commerce to distinguish goods or services, the Panel finds that the Complainant has failed to establish that it has rights in a name "BDCOI" and its domain name < bfcoi.com > cannot be used for purposes of the paragraph 4(a)(i) of the Policy.

The issue for the Panel to consider is therefore whether the disputed domain name <bcfoi.com> is confusingly similar to the registered BFC trademark.

First, the Panel finds the disputed domain name consist of the word BCFOI which states for "Banque des Crédit et Finances des Organismes Internationales", as published in the website https://bcfoi.com. The Complainant trademark BFC is an abbreviation of "Banque Francaise Commerciale". Both names have therefore another meaning and are not conceptually similar.

Despite that the registered trademark is fully comprised in the first three letters of the disputed domain name, the letters B – F - C are placed in a different order in each of the compared names and thus are mainly aurally dissimilar. Moreover, the domain name in dispute is longer than the registered trademark BFC as it contains two additional letters, which makes it also visually dissimilar.

For the above-mentioned reasons, according the Panel, the differences between the domain name in dispute and the Complainant's registered trademark outweigh the similarities.

The Panel considers therefore that the disputed domain name <bcfoi.com> and the Complainant's trademark BFC, registered in France under the No. 3894516 are not confusingly similar and infers that paragraph 4(a)(i) of the Policy is not satisfied.

Accordingly, the Complainant has failed to establish this first element of the Policy.

Given the Panel's finding on the first element of the Complaint, it is unnecessary to assess the Respondent's rights or legitimate interests in the disputed domain name.

It is also unnecessary to weigh the Complainants' allegations of bad faith, since the Complainant has not established that its

trademark is confusingly similar to the domain name in dispute.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **BCFOI.COM**: Remaining with the Respondent

PANELLISTS

Name	**JUDr. Hana Číslerová, LL.M.**

DATE OF PANEL DECISION 2020-05-06

Publish the Decision