Decision for dispute CAC-UDRP-103222

Case number	CAC-UDRP-103222
Time of filing	2020-08-13 11:38:42
Domain names	groupo-financo.com

Case administrator

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

Complainant

Organization	FINANCO

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Jeyden Semavo

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 several trademarks in France including the term “FINANCO”, such as:

- PREFERENCE FINANCO® (Registration No. 3385073) registered on October 11, 2005;

- FINANCO® (Registration No. 4576196) registered on August 21, 2019; and

- FINANCO VOUS PRÊTER ATTENTION® (Registration No. 4576194) registered on August 21, 2019.

FACTUAL BACKGROUND

The Complainant, FINANCO, is a financial company specializing in consumer credit founded in 1986. 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, <groupo-financo.com>, was registered on July 11, 2020 and redirects to a Spanish website

offering loan and consumer credits.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the FINANCO mark on the basis that the disputed domain name wholly incorporates the Complainant's trademark and the additions of the term "GROUPO", a hyphen and gTLD ".com" are insufficient to avoid the finding that the disputed domain name is confusingly similar to its FINANCO mark.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. In addition, the Respondent is not affiliated with the Complainant nor did the Complainant license or authorize the Respondent to use the FINANCO mark.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith as the Respondent should have known of the Complainant's FINANCO mark at the time of registration of the disputed domain name. The Complainant also asserts that use of the disputed domain name to a provide competing services disrupts the business of the Complainant and is evidence of bad faith registration and use.

RESPONDENT:

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

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

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark FINANCO.

The differences between the disputed domain name <groupo-financo.com> and the Complainant's FINANCO trademark are the addition of the term "GROUPO", a hyphen and a gTLD ".com".

It is well-established a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP (see, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin, WIPO Case No. D2003-0888). It is also established that the addition of a gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11). It is also established that the addition of a gTLD to a disputed domain name does not avoid confusing similarity as the use of a TLD is technically required to operate a domain name (see Accor v. Noldc Inc. WIPO Case No. D2005-0016; F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., WIPO Case No. D2006-0451; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; L'Oréal v Tina Smith, WIPO Case No. 2013-0820; Titoni AG v Runxin Wang, WIPO Case No. D2008-0820; and Alstom v. Itete Peru S.A. WIPO Case No. D2009-0877).

The disputed domain name consists of the Complainant's FINANCO mark and the additions of the term "GROUPO", a hyphen and a gTLD ".com" which in the Panel's view do not avoid confusing similarity with the Complainant's trademark (see Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd., WIPO Case No. D2015-2333; WIPO Overview 3.0, section 1.9).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the FINANCO mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or interests in respect of the domain name. Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, paragraph 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the FINANCO mark (See OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, WIPO Case No. D2015-1149; Sanofi-Aventis v. Abigail Wallace, WIPO Case No. D2009-0735).

The Complainant also submitted evidence that the Respondent is not commonly known by the disputed domain name.

The Respondent did not submit a response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which is sufficient to rebut the Complainant's prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must show that the respondent registered and is using the domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain name <groupo-financo.com> redirects to a website providing financial services such as consumer loan or personal loans, which compete with the services offered by the Complainant. It is well established that using a domain name to offer competing services is often been held to disrupt the

business of the owner of the relevant mark is evidence of bad faith [see 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 4(b)(iii).")].

It is also the Complainant's evidence that the FINANCO mark has no meaning in any language therefore the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant's mark which was registered long ago. In the Panel's view, this is an indicator of bad faith on the part of the Respondent (see Boursorama SA v. Estrade Nicolas, WIPO Case No. D2017-1463). The Complainant's evidence is also indication that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark.

In addition, the Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that the disputed domain name redirects to a website offering competing services and the fact that no Response was submitted by the Respondent, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GROUPO-FINANCO.COM**: Transferred

PANELLISTS

Name	**Mr. Jonathan Agmon**

DATE OF PANEL DECISION 2020-09-21

Publish the Decision