Decision for dispute CAC-UDRP-103524

Case number	CAC-UDRP-103524
Time of filing	2021-01-22 08:33:31
Domain names	financo.group

Case administrator

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

Complainant

Organization	FINANCO

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Euro Market Direct

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 including the term “FINANCO”, such as:
- The French trademark PREFERENCE FINANCO® n°3385073 registered since October 11th, 2005, notably in class 36 for financial-related services;
- The French trademark FINANCO VOUS PRÊTER ATTENTION® n°4576194 registered since August 21st, 2019, notably in class 36 for financial related services;
- The French trademark FINANCO® n°4576196 registered since August 21st, 2019, notably in class 36 for financial related services.

The Complainant also owns several domain names including the term “FINANCO”, such as the domain names <financo.fr> registered and used since March 18th, 1998 and <financo.eu> registered and used since March 20th, 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.group> was registered on January 14th, 2021 and redirects to a website written offering loan and consumer credit.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contentions can be summarised as follows:

The disputed domain name < financo.group > is identical to the Complainant's trademark FINANCO®. The trademark is included in its entirety in the disputed domain name.

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". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

The addition of the new generic Top-Level Domain suffix ".GROUP" does not change the overall impression of the disputed domain name being connected to the trademark FINANCO®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trademark. Please 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.")

Finally, past Panels have established the Complaint's rights over the term "FINANCO". Please see for instance:
- CAC Case No. 103222, FINANCO v. Jeyden Semavo <groupo-financo.com>;
- CAC Case No. 102589, FINANCO v. webo Master <financo-credit-investment.com>;
- 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>.

Thus, the disputed domain name <financo.group> is identical 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 a prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Respondent is not commonly known as the disputed domain name. 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. Please see for instance:
- NAF Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).");
- NAF Case No. FA 699652, The Braun Corporation v. Wayne Loney.

The Respondent is not affiliated with or authorized by the Complainant in any way. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any

business with the Respondent. No license or authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the website connected to the disputed domain name give no information about the Respondent. The disclaimer indicates in French “Fondée en 2015 Boulevard Richard Lenoir, 75011 Paris France, l’institution (“financo.group”) compte aujourd’hui plus de 7 000 clients s’étendant au-delà des frontières françaises dans plusieurs pays de l’Union Européenne.” (“Founded in 2015 Boulevard Richard Lenoir, 75011 Paris France, the institution now has more than 7,000 clients extending beyond French borders in several countries of the European Union.”). There is no information about a named bank FINANCO group located at this address (“Boulevard Richard Lenoir, 75011 Paris France).

Moreover, the website “www.financo.group” offers loan services, which compete with the services provided by the Complainant. Past Panels have held that using a disputed domain name to offer related services to that of a complainant is not a use indicative of rights or legitimate interests. Please see for instance NAF 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 ¶ 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii).”).

Accordingly, the Respondent has no rights or legitimate interests in the disputed domain name <financo.group>.

The disputed domain name(s) has been registered and is being used in bad faith

The Respondent has registered the domain name <financo.group>, which is identical 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. Using a domain name in order to offer competing services is often been held to disrupt the business of the owner of the relevant mark is bad faith. Please see NAF 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).").

By using the 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). Please see NAF 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 ¶ 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.")

RESPONDENT:

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

The disputed domain name registered in 2021 is identical for the purposes of the Policy to the Complainant's FINANCO trade mark (registered in France for financial services since 2019 but used since at least 1998 when financo.fr was registered by the Complainant) adding only the gTLD .group which does not prevent the disputed domain name being identical to the Complainant's mark for the purposes of the Policy.

The Respondent is not commonly known by the disputed domain name and is not authorised by the Complainant.

The disputed domain name has been used for competing services to those of the Complainant. This is not a bona fide offering of goods or services or a legitimate non commercial or fair use under the Policy. It is registration and use in bad faith disrupting the business of the Complainant and diverting and confusing Internet consumers for commercial gain as to the origin of the web site attached to the disputed domain name and the services offered on it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FINANCO.GROUP**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2021-02-16

Publish the Decision