

Decision for dispute CAC-UDRP-104602

Case number CAC-UDRP-104602

Time of filing 2022-05-23 09:04:26

Domain names hellobank.online

Case administrator

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

Complainant

Organization BNP PARIBAS

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization TaS Box

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 registered trademarks in respect of the mark HELLO BANK including for example:

- International Registered Trademark no. 1157012 for the word mark HELLO BANK, registered on February 27, 2013 in Class 36, and designated in respect of 10 territories; and

- European Union Registered Trademark no. 14266779 for the word mark HELLO BANK, registered on February 18, 2017 in Class 36.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is an international banking group with a presence in 68 countries, and is one of the largest banks in the world. It has nearly 190,000 employees and EUR 46.2 billion in revenue.

HELLO BANK! is the mobile banking brand of BNP PARIBAS FORTIS, one of the Complainant's subsidiaries.

The Complainant is the owner of the HELLO BANK registered trademark. The Complainant is also the owner of multiple domain names bearing this mark, including for example, <hellobank.com> registered since December 7, 2005.

The Respondent registered the disputed domain name on March 23, 2022. It resolves to a parking page.

The disputed domain name is identical to the Complainant's HELLO BANK trademark and contains this in its entirety, without any addition or deletion. The addition of the gTLD ".online" does not change the overall impression of connection to the Complainant's trademark and does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names.

The Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not known as the disputed domain name in the Whois database and has not acquired corresponding trademark rights. 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. The Respondent is not related in any way to the Complainant's business, and the Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent is not affiliated with the Complainant, nor authorized by it in any way to use its HELLO BANK trademark.

The disputed domain name resolves to a parking page, indicating that the Respondent has not used the disputed domain name and has no demonstrable plan to use it.

The Respondent has registered and is using the disputed domain name in bad faith. The Respondent registered the disputed domain name several years after the registration of the Complainant's trademark, which has established a strong reputation. The Complainant contends that the term "HELLO BANK" does not have any significance, except in relation to the Complainant. Given the distinctiveness of the Complainant's trademark and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in the trademark, thus evidencing bad faith.

PARTIES CONTENTIONS

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 second level of the disputed domain name is identical to the Complainant's trademark, other than the addition of a

space between the two words in the latter. Such space is not of any significance, given that spaces are not permitted in domain names for technical reasons. The generic Top-Level Domain, in this case “.online”, is typically disregarded for the purposes of the comparison exercise under the Policy. In these circumstances, the Panel finds that the disputed domain name is identical to the Complainant’s trademark.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent is not commonly known by the disputed domain name, and that the Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant further submits that the Respondent is not affiliated with it nor authorized by it to use its HELLO BANK trademark. The Complainant adds that the disputed domain name resolves to a parking page, indicating that the Respondent has not used the disputed domain name and has no demonstrable plan to use it.

The Respondent has not filed a Response in this case and has not sought to set out any alleged rights or legitimate interests which it might have in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant’s prima facie case. While the Panel cannot overlook the possibility that the Respondent might have come by the phrase “hello bank” independently of the Complainant’s trademark, because this consists of dictionary words, the Panel considers that this is unlikely on the balance of probabilities, given that it is an unusual combination of words which does not represent an established or well-known phrase that is independent of the Complainant’s trademark. Furthermore, there is no actual use of the disputed domain name at present which might have suggested any such independent selection of the phrase concerned.

In all of the above circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. As noted above, although the words “hello bank” are dictionary words, they are not usually found in this combination and the term does not represent an established or well-known phrase existing independently of the Complainant’s trademark. As far as the Panel is concerned, and as the evidence of a Google search produced by the Complainant demonstrates, this phrase signifies the Complainant’s trademark alone, while no other meanings or uses are indicated. In these circumstances, the Panel reasonably infers that the Respondent must have been aware of the Complainant’s rights in said mark when it registered the disputed domain name.

There is no website at the disputed domain name and accordingly it is being “passively held”. Such passive holding does not allow the Respondent to escape a finding of registration and use in bad faith in circumstances where the disputed domain name is identical to the Complainant’s mark, where the Respondent has failed to submit a Response or otherwise to provide any evidence of actual or contemplated good faith use, and where it is implausible that the disputed domain name could be put to any such good faith use if its website were to become active (see, on this topic, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

The Respondent has not chosen to reply to the Complainant’s allegations of bad faith registration and use, nor has it attempted to advance any explanation for the registration and use of the disputed domain name which might indicate that its actions were in good faith. On the basis of the present record, and in the absence of such a Response, the Panel has not identified any reasonably plausible explanation which the Respondent might have tendered concerning the registration and use of the disputed domain name which would have avoided a finding of registration and use in bad faith in accordance with the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. HELLOBANK.ONLINE: Transferred

PANELLISTS

Name **Andrew Lothian**

DATE OF PANEL DECISION **2022-06-16**

Publish the Decision
