Decision for dispute CAC-UDRP-102858

Case number	CAC-UDRP-102858
Time of filing	2020-01-14 09:54:04
Domain names	bnp-paribas-fortis.net

Case administrator

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

Complainant

Organization	BNP PARIBAS

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	tejivi tejivihuih

OTHER LEGAL PROCEEDINGS

The Panel is unaware of other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous trademarks BNP PARIBAS®, such as:

- the international trademark BNP PARIBAS® n°728598 registered since February 23, 2000;

- the international trademark BNP PARIBAS® n°745220 registered since September 18, 2000;

- the international trademark BNP PARIBAS® n°876031 registered since November 24, 2005.

The Complainant also owns the European Union trademark BNP PARIBAS FORTIS® n° 008373185, registered since June 18, 2009.

The Complainant is also the owner of a large portfolio of domain names “BNP PARIBAS”, such as <bnpparibas.com>, registered since September 2, 1999.

FACTUAL BACKGROUND

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

BNP PARIBAS S.A. (the “Complainant”) is an international banking group with a presence in 72 countries, and one of the largest banks in the world (please see its website www.group.bnpparibas). With more than 202 624 employees and €7.5 billion in net profit, the Complainant stands as a leading bank in the Eurozone and a prominent international banking institution.

BNP PARIBAS FORTIS is the Complainant’s Belgium subsidiary.

The Complainant owns numerous trademarks BNP PARIBAS®, such as:

- the international trademark BNP PARIBAS® n°728598 registered since February 23, 2000;

- the international trademark BNP PARIBAS® n°745220 registered since September 18, 2000;

- the international trademark BNP PARIBAS® n°876031 registered since November 24, 2005.

The Complainant also owns the European Union trademark BNP PARIBAS FORTIS® n° 008373185, registered since June 18, 2009.

The Complainant is also the owner of a large portfolio of domain names “BNP PARIBAS”, such as <bnpparibas.com>, registered since September 2, 1999.

The disputed domain name <bnp-paribas-fortis.net> was registered on January 5, 2020 and points to a parking page with commercial links both related and unrelated to the Complainant and its activities.

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

According to Paragraph 4(a) of the Policy, a complainant is required to prove each of the following three elements to obtain an order that a domain name should be transferred or cancelled:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The disputed domain name is confusingly similar to the Complainant's Trademark, company name and domains. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of

disregarding the top-level suffix in the domain name (i.e. ".net").

Therefore, the Panel comes to the conclusion that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see e.g. WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Complainant has put forward that the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. Nor has the Respondent been granted an authorization or license to use the disputed domain name by the Complainant. This has not been contested by the Respondent. Instead, the Respondent failed to provide any information and evidence whatsoever that could have shown that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith. For this purpose, the Complainant has successfully put forward prima facie evidence that the Respondent has not made use, or demonstrable preparations to use, of either the disputed domain name in connection with a bona fide offering of goods or services, or of making a legitimate non-commercial or fair use of the disputed domain name. The Respondent is also in no way commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, not even after the cease and desist letter of the Complainant dated October 06, 2016.

In the absence of a Response and given the reputation of the Complainant and its trademarks, company name and domain as supported by the Complainant's evidence, the Panel must conclude that the Respondent was fully aware of the Complainant's trademarks, domain and company name and in particular the complainant's trademark "BNP PARIBAS FORTIS® at the time of registering the disputed domain name <BNP-PARIBAS-FORTIS.NET>. Therefore, it has been established to the satisfaction of the Panel that the disputed domain name was registered and is being used (at least passively) in bad faith, in order to prevent the Complainant from making proper use of the mark in the disputed domain name.

The fact that the address given by the Respondent in the Netherlands does not appear to exist but seems entirely fictitious supports this finding.

Therefore, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BNP-PARIBAS-FORTIS.NET**: Transferred

PANELLISTS

Name	**Udo Pfleghar**

DATE OF PANEL DECISION 2020-02-21

Publish the Decision