

## Decision for dispute CAC-UDRP-105140

Case number CAC-UDRP-105140

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Time of filing 2023-01-19 09:15:38

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Domain names bforhank.online

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### Case administrator

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

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### Complainant

Organization BFORBANK

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### Complainant representative

Organization NAMESHIELD S.A.S.

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### Respondent

Name Tildo Rosemar

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#### 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.

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#### IDENTIFICATION OF RIGHTS

The Complainant is the owner several trademarks BFORBANK and, among them, word type EUTM (Reg. No. 8335598), registered since June 2, 2009, and duly renewed.

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#### FACTUAL BACKGROUND

The Complainant, BforBank, an online bank launched in October 2009 by the Crédit Agricole Regional Banks. BforBank offers daily banking, savings, investment and credit (consumer and real estate) services mainly in France.

The Complainant owns a number of domain names, including the same distinctive wording BFORBANK, such as the domain name <bforbank.com>, registered since January 16, 2009.

The disputed domain name <bforhank.online> was registered on January 11, 2023, and redirects to an error page. MX servers are configured as well.

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#### PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

The Panel agrees with the Complainant that the disputed domain name <bforhank.online> is confusingly similar to the Complainant's trademark BFORBANK. The evidence adduced by the Complainant shows the extensive use of its trademark BFORBANK in France and the Complainant enjoys a high degree of reputation. The Panel agrees that merely substituting the letter "B" with the letter "H" in the middle of the word „BFORBANK“ does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark (section 1.9 of WIPO Overview 3.0 states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element."). Moreover, the addition of the new gTLD <.online> like any other gTLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see WIPO Overview 3.0, para. 1.11.1). Consequently, this new gTLD does not change the overall impression of the designation as being connected to the trademark BFORBANK and it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain name associated.

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademark in any manner, including in domain names. The Respondent's name "Tilto Rosemar" does not resemble the disputed domain name in any manner. The disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. The panels in previous CAC UDRP cases underlined that such activity would be far from any good faith use (see the decision of CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono: "There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address."). In conclusion, Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent, when it registered the disputed domain name, meant nothing else except the Complainant's trademark BFORBANK (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **bforhank.online**: Transferred

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## **PANELLISTS**

Name	<b>Darius Sauliūnas</b>
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DATE OF PANEL DECISION **2023-02-13**

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**Publish the Decision**

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