

Decision for dispute CAC-UDRP-105518

Case number	CAC-UDRP-105518
Time of filing	2023-06-09 10:24:43
Domain names	bforhank.top, bfordank.top

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	Natalia Frisch
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the EU trademark reg. no. 008335598 for BforBank filed on June 2, 2009 and registered on December 8, 2009 in classes 9, 35, 36 and 38. The Complainant also proved to own the domain name <bforbank.com>.

FACTUAL BACKGROUND

I - The Complainant.

BFORBANK is 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.

II - The disputed domain names

<BForHank.top> was registered on May 14 2023.

<BFordAnk.top> was registered on June 2 2023.

Both domain names are registered by Natalia Frisch.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant claims that the disputed domain names are confusingly similar to its prior trademark and domain name as the substitution of the letter "B" by the letter "H" or "D" in the trademark BFORBANK is not sufficient to escape the finding that the domain names are confusingly similar to the trademark BFORBANK.

The Complainant supports its allegations citing several UDRP decisions which confirmed that minor spelling variations do not prevent domain names from being confusingly similar to the Complainant's trademarks.

Finally, the Complainant contends that TLD are disregarded when assessing confusing similarity as they are considered as standard registration requirements.

The Complainant claims that the Respondent has no rights nor legitimate interest in registering the disputed domain name. According to the Complainant assertions, there is no evidence that the Respondent is known as the disputed domain names.

Finally, the actual use of the disputed domain name is not considered a "bona fide offering of goods or services" or a "legitimate non-commercial or fair use" for the purposes of the Policy.

As regards registration and use in bad faith, the Complainant claims that since the BFORBANK trademark is widely known, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's rights. Moreover, the disputed domain name <bfordank.top> resolved to a website which is a copy of the Complainant's official customer access.

RESPONDENT:

The Respondent did not file an administrative response.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

1. The disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

The Complainant has successfully proved to be the owner of the trademark BFORBANK and of the domain name <bforbank.com>.

The disputed domain names are composed by the elements "bforhank" and "bfordank".

The Panel finds that the trademark "BFORBANK" is fully recognizable in the disputed domain names and that the substitution of the letters "h" (in bforhank) and "d" (in bfordank) with the letter "b" (of bforbank) have no significant impact in the confusing similarity assessment.

According to a consolidated case law in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in it, the confusing similarity threshold is met.

Furthermore, the addition of ".top" is generally disregarded in view of its technical function.

As a consequence, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademarks, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain names.

Pursuant to paragraph 4(a)(ii) of the Policy, a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests in the domain name. Once such a prima facie case is made, the respondent carries the burden of demonstrating its rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, the Panel finds that the Complainant's submitted evidence and allegations are sufficient to establish a prima facie case of Respondent's lack of rights and legitimate interests in the disputed domain names also in the view of the fact that the Respondent did not reply to the complaint.

On the basis of the information submitted by the Complainant and not contested by the Respondent, the Panel agrees that the Respondent is not commonly known by the disputed domain names nor the Complainant has authorized the Respondent to use and register the disputed domain names.

The Panel agrees with the Complainant that the use of the disputed domain names does not amount to a bona fide offering of goods / services nor a legitimate / fair use of a domain name. In particular the Complainant proved that one of the disputed domain names (<bfordank.top>) linked to a website which is a copy of its own website.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain names for the purposes of the Policy.

3. The disputed domain names have been registered and are being used in bad faith.

The Panel finds the following circumstances as material in order to establish the Respondent's bad faith in the registration of the disputed domain names:

- (i) the disputed domain names were registered well after the Complainant acquired rights on the trademark BFORBANK;
- (ii) the disputed domain names are a clear and obvious misspelling of the Complainant's trademark (i.e. typo squatting). Previous panels found that typo squatting discloses an intention on the part of the respondent to confuse users seeking or expecting to find a website related to the Complainant.

Furthermore, the Panel agrees that the disputed domain names are used in bad faith. In particular, the disputed domain name <bfordank.top> resolved to a website which is a copy of the Complainant's website. Thus, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his websites (par. 4(b)(iv) of the Policy). Moreover, this domain name could be used by the Respondent to collect personal information about the Complainant's potential clients. This could be very dangerous as the Complainant is a bank.

Moreover, the distinctiveness of the Complainant's trademark which makes it very improbable that the disputed domain names could be used in good faith.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain names for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. bforhank.top: Transferred
 2. bfordank.top: Transferred
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PANELLISTS

Name	Andrea Mascetti
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DATE OF PANEL DECISION 2023-07-12

Publish the Decision
