

Decision for dispute CAC-UDRP-105547

Case number	CAC-UDRP-105547
Time of filing	2023-06-20 09:45:35
Domain names	app-bforbank.com, app-bforbank.net, app-bforbank.org

Case administrator

Name	Olga Dvořáková (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

Organization	GRUPOITRACK
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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 European trademark BFORBANK, n° 8335598 registered since June 2nd, 2009.

FACTUAL BACKGROUND

The Complainant is an online bank launched in October 2009 by the Crédit Agricole Regional Banks. It offers daily banking, savings, investment and credit services and it owns the domain name <bforbank.com>, registered on January 16, 2009.

The disputed domain names were registered on June 6, 2023 and are inactive.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names to be 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 that 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 the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 15(a) of the UDRP Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that the domain names should be cancelled or transferred:

- the domain names registered by the Respondent are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- the Respondent has no rights or legitimate interests in respect of the domain names; and
- the domain names have been registered and are being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a Complaint. However, the Panel may deny relief where a Complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; *see also eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire*, FA 157287 (Forum June 26, 2003) ('Because Complainant did not produce clear evidence to support its subjective allegations [. . .] the Panel finds it appropriate to dismiss the Complaint').

The Panel finds each of the disputed domain names to be confusingly similar to the Complainant's BFORBANK mark, since each includes the mark in its entirety, merely adding "app" (the abbreviation for "application"), a hyphen and the inconsequential gTLD ".com", ".net" or ".org", which may be ignored.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names because the Respondent is not identified in the Whois database as the disputed domain names, hence is not known as the disputed domain names; neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BFORBANK nor to apply for registration of the disputed domain names; and because the disputed domain names have been inactive since their registration, the Respondent has no demonstrable plan to use the disputed domain names.

The Panel notes that the disputed domain names were registered on June 6, 2023 and are inactive. These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the disputed domain names on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain names. The Respondent has made no attempt to do so. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the disputed domain names.

Paragraph 4(b) of the Policy sets out some circumstances which shall be evidence of the registration and use of a domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy. As noted in the WIPO Jurisprudential Overview 3.0, Section 3.1, those circumstances are not exclusive and a complainant may demonstrate bad faith under paragraph 4(a)(iii) by showing that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant's trademark.

In the absence of any Response, the circumstances set out above satisfy the Panel that the Respondent was fully aware of Complainant's BFORBANK mark when the Respondent registered the disputed domain names and that the Respondent did so in bad faith with intent to take unfair advantage of the Complainant's mark.

Although the disputed domain names do not resolve to active websites, as in the leading case of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003, there is no conceivable active use that could be made of the disputed domain names that would not amount to an infringement of the Complainant's rights in its BFORBANK mark. Accordingly, in the absence of any response, the Panel finds that the Respondent's passive use of the disputed domain names demonstrates registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **app-bforbank.com**: Transferred
- 2. **app-bforbank.net**: Transferred
- 3. **app-bforbank.org**: Transferred

PANELLISTS

Name **Alan Limbury**

DATE OF PANEL DECISION 2023-07-16

Publish the Decision