

Decision for dispute CAC-UDRP-105815

Case number	CAC-UDRP-105815
Time of filing	2023-09-27 09:48:08
Domain names	cofinogafinance.com

Case administrator

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

Organization	BNP PARIBAS PERSONAL FINANCE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Julia Dubreuil
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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.

IDENTIFICATION OF RIGHTS

The Complainant owns the International work trademark COFINOGA reg. no. 688493 registered on 2 March 1998 in classes 35, 36, 39 and 42 ("Complainant's Trademark").

The disputed domain name <cofinogafinance.com> was registered on 22 July 2023.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant is a company which offers a complete range of loans for private individuals to support them in their projects. As a 100% subsidiary of BNP PARIBAS GROUP, and with 96 billion euros of outstanding loans managed and 5,4 million of net banking income, BNP PARIBAS PERSONAL FINANCE is the leader in personal financing in France and Europe through its consumer credit and home loan activities and exploits several trademarks, such as COFINOGA;

(b) The Complainant is the owner of Complainant's Trademark and large portfolio of domain names "COFINOGA", such as

<cofinoga.com>, registered on 11 September 1996;

(c) When the Complainant was informed of the registration of the disputed domain name, it resolved to a website offering loan under the name COFINOGA. It now resolves to a parking page.

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) The disputed domain name is confusingly similar Complainant's Trademark. It contains Complainant's Trademark followed by a generic term "finance". Adding such non-distinctive term does not diminish confusing similarity of disputed domain name to Complainant's Trademark;

(ii) The Respondent is not known by the disputed domain name and is not affiliated with the Complainant or authorized in any way to use the Complainant's Trademark. The Respondent does not carry out any activity for, nor has any business with the Complainant. Moreover, when the Complainant was informed of registration, the disputed domain name pointed to a website offering loans under the name COFINOGA, which compete with the Complainant's services and now it resolves to a registrar parking page. As a result, the Respondent does not have right or legitimate interest in respect of the disputed domain name;

(iii) Given the distinctiveness of the Complainant's Trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark. Furthermore, the disputed domain name pointed to a website offering loans under the name COFINOGA, which compete with the Complainant's services. Thus, the Complainant contends that the Respondent uses the domain name to divert Internet users searching for the Complainant's website to the Respondent's competing website, and to create a likelihood of confusion with the Complainant's Trademark for the Respondent's commercial gain by offering competing services which amounts to the bad faith of the Respondent in registration and use of the disputed domain name.

For the above reasons, the Complainant seeks transfer the disputed domain name to the Complainant.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

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 Uniform Domain Name Dispute Resolution Policy ("UDRP" or "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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

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

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant's Trademark. It contains the Complainant's Trademark "COFINOGA" and then a non-distinctive term "finance" is added which is not sufficient to distinguish disputed domain name from Complainant's Trademark.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTEREST

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

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence 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). Moreover, the Respondent used the website under the disputed domain name to offer loan services competing with those of the Complainant and such conduct clearly cannot establish rights or legitimate interest of the Respondent in respect of the disputed domain name (actually, it establishes Respondent's bad faith in registration and use of the disputed domain name as discussed below).

Therefore, the Panel concludes that the Complainant has 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 Panel finds that the Respondent operated a website under the disputed domain name which referred to Complainant's Trademarks and which included certain loan offers together with a loan request form. Therefore, the Respondent attempted to pass off as the Complainant or at least create a false notion of association with the Complainant in order to deceive consumers who were misled into believing that the website is supported by or connected to the Complainant.

The Panel believes that such activities are clear evidence of bad faith of the Respondent as it has been held by number of previous UDRP decisions, as the Complainant correctly pointed out. Moreover, it cannot be ruled out that the loan request form which prompted the internet users to fill in their personal data was actually used for phishing purposes.

As a result, the Panel found that the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of 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. **cofinogafinance.com**: Transferred

PANELLISTS

Name **Michal Matějka**

DATE OF PANEL DECISION **2023-10-26**

Publish the Decision
