Decision for dispute CAC-UDRP-106034

Case number	CAC-UDRP-106034
Time of filing	2023-12-04 10:18:39
Domain names	bforbank.xyz

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Rait Ranna

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 is the owner of EUTM number 8335598 "BforBank" registered on December 8, 2009.

FACTUAL BACKGROUND

The Complainant is an online bank launched in October 2009 by the Crédit Agricole Regional Banks and offers daily banking, savings, investment and credit (consumer and real estate) services. The Complainant informs to be the owner of several trademarks BFORBANK and in particular of the EUTM n° 8335598 filed on June 2nd, 2009 and regularly registered.

Furthermore, the Complainant also owns many domain names, including the same distinctive wording BFORBANK, such as the domain name <bforbank.com>, registered since January 16, 2009.

The Complainant notes that the disputed domain name <bforbank.xyz> was registered on November 27, 2023.

According to the Complainant, the disputed domain name is identical to its trademark BFORBANK since said domain name includes the Complainant's mark in its entirety and the addition of the generic Top-Level Domain suffix “.xyz” does not change the overall impression of the designation as being connected to the trademark BFORBANK.

Furthermore, the Complainant argues that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name since the Respondent was not commonly known by the disputed domain name and the Complainant has never grant the Respondent a license or permission to use its BFORBANK mark.

In addition, the Complainant notes that the disputed domain name was registered and is used in bad faith. Actually, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable, in the Complainant's view, that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark. The Complainant has also provided a screenshot of a redirect check, taken on November 29, 2023, showing that the disputed domain name redirected to the Complainant's website (www.bforbank.com).

PARTIES CONTENTIONS

The Complainant´s contentions are summarized above.

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

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

(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.

1) The Panel finds that the disputed domain name <bforbank.xyz> is confusingly similar to the Complainant’s trademark "BforBank". Many panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see, among others, Chubb Security Australia PTY Limited v. Mr. Shahim Tahmasebi, WIPO Case No. D2007-0769; Société Air France v. Virtual Dates, Inc., WIPO Case No. D2005-0168 and Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO Case No. D2000-0662). This is the case in the present situation where the Complainant’s registered trademark "BforBank" is fully included in the disputed domain name. The additional element, namely the gTLD ".xyz", is a mere technical requirement, which does not affect the identity between the signs and should be disregarded. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant demonstrated that the disputed domain name redirects to the Complainant's official website. The Panel finds that said activity, of course, does not provide a legitimate interest in the disputed domain name under the Policy. Furthermore, the Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use the "BforBank" trademark by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds on the second element of the Policy.

3) According to the unrebutted assertions of the Complainant, its "BforBank" trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is practically identical to the Complainant's trademark and according to unrebutted information in the case file, it was used to redirect to the Complainant's official website. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name. Therefore, given the circumstances in the case, and that the disputed domain name incorporating the Complainant's trademark redirected to the Complainant's official website, the Panel considers that the Respondent must have had knowledge of the Complainant's rights in the "BforBank" trademark when it registered the disputed domain name. Furthermore, the use of the disputed domain name to redirect to the Complainant's official website only serves to increase confusion that the disputed domain name is somehow affiliated with or authorized by the Complainant (See PayPal Inc. v. Jon Shanks, WIPO Case No. D2014-0888 and AXA S.A., AXA Investment Managers S.A. v. Domains By Proxy, Inc. / Adam Long, WIPO Case No. D2009-0452); in addition, previous panels have held that the Respondent, by retaining the control over the redirection, may create a real or implied ongoing threat to the Complainant (see, among others, Prada S.A. v. Whois Privacy, Private by Design, LLC /Eric Hanson, WIPO Case No. D2021-4420). The fact that the Respondent chose not to object to the Complainant's assertions can only reinforce the Panel's view that the Respondent has intentionally created a likelihood of confusion with the Complainant's trademarks and website in order to attract Internet users for its own commercial gain and/or to disrupt the business of the Complainant (see, among others, Boursorama v. BrooklynOnline, Brooklyn Dickerson, WIPO Case No. D2023-4167). The Complainant therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bforbank.xyz**: Transferred

PANELLISTS

Name	**Guido Maffei**

DATE OF PANEL DECISION 2024-01-08

Publish the Decision