Decision for dispute CAC-UDRP-106307

Case number	CAC-UDRP-106307
Time of filing	2024-02-29 10:39:37
Domain names	beforbankbfb.site

Case administrator

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

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Mme JOELLE PEYRET FORCADE jhonscole

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 proprietor of the European Union Trademark 008335598 BforBank applied for on June 2, 2009 and registered on December 8, 2009 for goods and services in classes 9, 35, 36, 38. The mark is in effect.

FACTUAL BACKGROUND

The Complainant 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 for approx. 230.000 customers. The Complainant also owns a number of domain names, including the domain name <bforbank.com>, registered since January 16, 2009.

The disputed domain name was registered on February 21, 2024 and is currently inactive. The identity of the respondent was initially hidden.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the trademark BforBank since the differences relate to an abbreviation of the full name in BFB and a typosquatting by the addition of an „E“ after the first letter „B“. The Complainant denies that the Respondent was authorized to use its trademark in the disputed domain name. Given Complainant´s trademark has a strong reputation, Complainant finally contends that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark.

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

The Complainant has established the fact that it has valid trademark rights for BforBank, inter alia in class 36 in the European Union.

The disputed domain name is confusingly similar to the BforBank mark of the Complainant since the TLD „.site“ and the abbreviation „BFB“ cannot be considered as relevant to influence the overall impression of the domain name respectively avoid a high confusing similarity. This is also true for the second letter „E“ in the disputed domain name which is in connection with the letter „B“ before phonetically identical to the beginning of Complainant´s trademark.

The Panel therefore considers the domain name to be confusingly similar to the trademark BforBank in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights in the disputed domain name since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademark. Furthermore, the Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name “Beforebankbfb.site“ nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services.

The Panel therefore finds that the respondent does not have rights or legitimate interests in the domain name.

Due to high similarity of the disputed domain name to the trademark of the Complainant, the Respondent must have been well aware of the Complainant and its trademark when registering the disputed domain name. The Complainant had not authorised the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

Although the disputed domain name is offline, the consensus view amongst panellists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that “the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances of the case to determine whether the

respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, and the concealment of identity. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the Policy.

The Panel therefore considers the domain name to have been registered and used in bad faith in accordance with 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. **beforbankbfb.site**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-04-04

Publish the Decision