Decision for dispute CAC-UDRP-106430

Case number	CAC-UDRP-106430
Time of filing	2024-04-09 10:09:02
Domain names	APP-BFORBK.COM

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Jules Nourymo

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 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 Respondent

The disputed domain name was registered on March 1, 2024 and redirects to an inactive page. The Respondent is Jules Nourymo who lives in France.

PARTIES CONTENTIONS

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Complainant

The Complainant claims that the disputed domain name (i.e. <app-bforbk.com>) is confusingly similar to its prior trademark and domain name since the addition of the element "APP" and the deletion of the letters "AN" do not have a significant impact for the relevant public.

The Complainant also 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 name.

Moreover, the actual use of the disputed domain name is not considered a "bona fide offering of goods or services" nor 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 fact that the disputed domain name is not used does not exclude a finding of bad faith under the UDRP Policy.

Respondent

The Respondent did not file an administrative reply.

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

1. The disputed domain name is 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 name is composed by the elements "appbforbk".

The Panel finds that the trademark “BFORBANK” is fully recognizable in the disputed domain name and that the deletion of the letters "AN" has no significant impact in the confusing similarity assessment.

Moreover, in the Panel's view, the addition of the descriptive element "APP" increases the likelihood of confusion/association with the Complainant since the relevant public may perceive the disputed domain name as BFORBANK's web application.

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 ".com" is generally disregarded in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is 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 name.

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 name 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 name nor the Complainant has authorized the Respondent to use and register the disputed domain name. As a matter of fact the WHOIS information about the Respondent does not, apparently, provide any justification for the registration of <bforbk.com>.

Moreover the disputed domain name is not used. Therefore, in the Panel's view, it is not used in a legitimate noncommercial or fair use nor in connection with a bona fide offering of goods or services for the purposes of the UDRP Policy.

3. The disputed domain name has been registered and is 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 name:

(i) the disputed domain name was registered well after the Complainant acquired rights on the trademark BFORBANK;

(ii) the combination between BFORBK (very similar to BFORBANK) with APP suggests that the disputed domain name was registered with full knowledge of the BFORBANK trademark and business.

Furthermore, the disputed domain name resolves to an inactive page. Given the reputation of the BFORBANK trademark and the similarity between the disputed domain name and the Complainant's trademark, the Panel agrees that it is hardly conceivable any plausible active use of <app-bforbk.com> that would not infringe the Complainant's rights on BFORBANK.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain name 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. **APP-BFORBK.COM**: Transferred

PANELLISTS

Name	**Andrea Mascetti**

DATE OF PANEL DECISION 2024-05-12

Publish the Decision