Decision for dispute CAC-UDRP-106466

Case number	CAC-UDRP-106466
Time of filing	2024-04-18 17:37:04
Domain names	bforblanc.com

Case administrator

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

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Still London ltd

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 word mark, BFORBANK, a European trademark (EUTM) n°8335598 registered on 2 June 2009.

FACTUAL BACKGROUND

The Complainant, BFORBANK, is an online bank launched in October 2009 and is part of the Crédit Agricole group. It offers full banking services, savings, investment and credit (consumer and real estate) to 230,000 customers and is growing fast.

The Complainant also owns a number of domain names, including the same distinctive wording BFORBANK, as the disputed domain name <bforbank.com>, registered since 16 January 2009.

The disputed domain name <bforblanc.com> was registered on 9 April 2024 and resolves to a parking page.

Nothing is known of the Respondent which appears from an online search to own a London nail salon.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

The Complainant says the disputed domain name <bforblanc.com> is confusingly similar to its trademark, BFORBANK and is an obvious misspelling of that trademark BFORBANK. Here there is a substitution of the letter “K” in bank by the letters “L” and “C” for blanc. This it says is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant’s trademark (WIPO Case No. D2020-3457, ArcelorMittal (Société Anonyme) v. Name Redacted <arcelormltal.com>).

It says that the Respondent is not known as the disputed domain name, has no licence or right from the Complainant and there are no other legitimate rights or interests.

It says the Respondent must have known of its distinctive mark and reputation, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark. Furthermore, the disputed domain name points to a parking page. Under paragraph 4(b)(iv), bad faith may be shown by evidence that "by using the domain name, Respondent intentionally attempted to attract by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.".

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.

The Respondent accessed the online case file but did not submit any contentions.

PRINCIPAL REASONS FOR THE DECISION

There is no question about the rights of the Complainant. It has Rights in a name and mark identical/similar to the disputed domain name. This Panel concurs that the registered word mark is a highly distinctive mark. This does appear to be typo-squatting. There is similarity. We are comparing <BforBank.com> with <BforBlanc.com>. Two characters differ.

As to the second limb, a complainant is only required to make out a prima facie case that a respondent lacks rights or legitimate interests and then the burden shifts to the respondent to show it has rights or legitimate interests in the domain name. If it fails to do so, the complainant is deemed to have satisfied the limb in paragraph 4(a) (ii). See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd. The Complainant has discharged its burden on this limb. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group

<bobsfromsketchers.com>. Here it is very clear that the Respondent, is not known by the name in the WHOIS records. There is no use as such to be bona fide use at the second factor. While passive holding is not Bad Faith per se, it is fact sensitive. Often, where there is no website, the purpose will be for e-mails. Here we do not know if the MX records are configured. This is a borderline case. However, the Complainant's mark is highly distinctive. On the other hand, on the face of the matter, the Respondent may have an interest in using the common dictionary words in their ordinary meaning. Perhaps about a colour. The Respondent has therefore been granted an opportunity to come forward and answer or present compelling arguments that he has rights or legitimate interests in the disputed domain name but has failed to do so. If the Respondent had an innocent reason for selecting the disputed domain name, we would expect to hear from him.

As to bad faith, the WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows is apposite. This is sometimes known as the passive Bad Faith test. Where a well-known distinctive mark is incorporated into a domain name without any legitimate reason or explanation, Bad Faith can often be inferred. The Respondent did not come forward to explain the reasons for the selection of the disputed domain names and why there is no Bad Faith.

Although finely balanced, the highly distinctive nature of the Complainant's name and mark, take the matter just over the line and the Complainant has discharged its burden.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bforblanc.com**: Transferred

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2024-05-23

Publish the Decision