Decision for dispute CAC-UDRP-106564

Case number	CAC-UDRP-106564
Time of filing	2024-05-24 09:13:11
Domain names	bforbk-clients.com

Case administrator

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

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Bruce Kalva

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks BFORBANK, such as the European trademark n°8335598 registered since 2009.

FACTUAL BACKGROUND

The Complainant is an online bank launched in October 2009 by the Crédit Agricole Regional Banks. The Complainant offers daily banking, savings, investment and credit (consumer and real estate) services. It counts over 230 000 clients and around 400 employees.

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

The disputed domain name was registered on May 17, 2024 and redirects to a parking page with commercial links.

PARTIES CONTENTIONS

COMPLAINANT:

A. The disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights

The Complainant states that the disputed domain name is confusingly similar to its prior trademark “BFORBANK”.

Indeed, the Complainant asserts that the deletion of the letters “AN” and the addition of the generic term “CLIENTS” is not sufficient to escape the finding that the domain name is confusingly similar to the trademark “BFORBANK”. It does not change the overall impression of the designation as being connected to the Complainant’s trademark “BFORBANK”. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated.

Besides, the abbreviation “BK” stands as an abbreviation for “BANK”.

Thus, the disputed domain name is confusingly similar to the Complainant's trademark.

B. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. 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. Thus, the Respondent is not known as the disputed domain name.

The Respondent is not known by the Complainant. The Complainant contends that Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark “BFORBANK”, or apply for registration of the disputed domain name.

Moreover, the disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Accordingly, the Respondent has no rights or legitimate interests on the disputed domain name.

C. The disputed domain name was registered and is being used in bad faith

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark “BFORBANK”.

The Respondent has registered the disputed domain name several years after the registration of the trademark “BFORBANK” by the Complainant, which has established a strong reputation while using this trademark. Indeed, the Complainant is well known, BFORBANK offers daily banking, savings, investment and credit (consumer and real estate) services for more than 230 000 customers.

Moreover, most results of a Google search of the term “BFORBK CLIENTS” refer to the Complainant, and notably to its clients’ interface.

Thus, given the distinctiveness of the Complainant's trademarks 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.

Besides, the disputed domain name resolves to a registrar parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT

No administratively compliant Response was filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, 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

To the satisfaction of the Panel, the Complainant has 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 have been met, and there is no other reason why it would be unsuitable for providing the Decision.

PRINCIPAL REASONS FOR THE DECISION

1. **Identical or Confusingly Similar**

First, the Panel is satisfied that the Complainant has shown it owns rights in the "BFORBANK" trademarks, with registration and evidence provided dating the trademark registration back to 2009.

Turning to analyze if there is a confusing similarity between the disputed domain name and the trademark. The disputed domain name consists of two main elements. The Panel will tackle the first element of the disputed domain name before moving on to the second one. On the first element, the Panel notes, based on the record at hand, that the disputed domain name reproduces partially the trademark, namely "BFORBK", that is, the trademark minus two letters, namely “NK” before the last letter of the disputed domain name. At first glance, the omission of these two letters is inconsequential to the appearance of confusing similarity with the “BFORBANK". This could be classified as a case of typosquatting, which is a practice whereby a domain name registrant deliberately introduces typographical errors or misspellings into a trademark, when registering the domain name. In addition, according to the Merriam-Webster Online Dictionary, “BK” might stand as an abbreviation for “BANK”. This conclusion is supported by the addition of a hyphen and the word “clients” in the disputed domain name, which is the second element of the dispute domain name. Adding this word heightens the appearance of confusing similarity with the trademark "BFORBANK" since it appears to be a reference to the users of the services provided by the Complainant, namely banking and financial services. In this instance, the element “clients” appears to enhance the appearance of confusing similarity of the disputed domain name with the Complainant’s trademark.

A more complete analysis of this will be conducted in the elements below, but suffice to say that in what relates to the first element, the slight difference is immaterial and, therefore, insufficient to dispel the confusing similarity between the trademark and the disputed domain name. Similarly, as mentioned earlier, the second element of the disputed domain name may even enhance the confusing similarity, as it will be discussed below.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. **Rights or Legitimate Interests**

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the uncontested facts.

The uncontested facts indicate that a) the Respondent is not commonly known by the disputed domain name; b) the Respondent is not related to the Complainant; c) the Respondent is not authorized to carry out any business activity for the Complainant; d) the Respondent has no license or authorization to use the trademarks; and e) the disputed domain name resolves to a parking page with commercial links.

Based on the above, the record at hand, and on the balance of probability, and considering that the Respondent has failed to respond to the Complainant's contentions, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

The above fact pattern on the balance of probabilities, and in conjunction with the use of the term "clients" in the disputed domain name, indicates, if nothing else, a likely intention of confusing Internet users with a likely implied association with the Complainant through appearing to be a formal channel of the Complainant.

The evidence on record leads the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. **Registered and Used in Bad Faith**

Per the record and evidence, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This is further reinforced by the fact that the "BFORBANK" trademark predates the registration of the disputed domain name as well as the global reputation of the "BFORBANK" mark indicates that the Respondent knew or should have known about the Complainant's rights when registering the disputed domain name.

Additionally, this conclusion is supported by the fact that the Respondent seems to evoke a connection to the Complainant's trademark by including the term "clients" in the disputed domain name, which appears to be an active effort by the Respondent to be a formal channel of the Complainant, without any visible explanation in disputed domain name regarding its association to the Complainant. Without further explanation from the Respondent, this appears to misrepresent a link between the disputed domain name and the Complainant. In this case, as the record supports, the Respondent appears to have targeted the Complainant on the balance of probabilities.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. **Decision**

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bforbk-clients.com**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2024-06-17

Publish the Decision