Decision for dispute CAC-UDRP-106580

Case number	CAC-UDRP-106580
Time of filing	2024-06-06 08:48:32
Domain names	frannke.com

Case administrator

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

Complainant

Organization	Franke Technology and Trademark Ltd

Complainant representative

Organization	Abion GmbH

Respondent

Name	Jack Jones

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

Complainant is the owner of international trademark nr. 387826 FRANKE, date of registration 17 February 1972, and of trademark FRANKE registered with the United States Patent and Trademark Office, registration date 9 February 1989.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <frankke.com> was registered on 12 April 2023.

The disputed domain name resolves to a pay-per-click parking page. In addition, MX records have been set up.

PARTIES CONTENTIONS

Complainant:

According to the evidence submitted Complainant is part of the Franke Group, a global group of companies based in Switzerland, originally founded in 1911. For over 100 years, the Franke Group has provided innovative devices and systems for kitchens,

bathrooms, professional foodservices and coffee preparation. The Franke Group's cooking systems especially aim at providing high quality systems tailored to the style and needs of each, professional and individuals. The Franke Group employs over 8,000 persons in 36 countries.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the disputed domain name incorporates a misspelled version of Complainant's registered and widely known trademark FRANKE, to which has been added another letter "n". It is a typosquatting situation. Complainant's trademark FRANKE has been on purpose misspelled in the disputed domain name to capitalize on Internet users' possible typing or reading errors when looking for information, or to communicate with Complainant online. The FRANKE trademark is clearly recognizable in the disputed domain name.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant has not licensed or authorized Respondent to register or use the disputed domain name, nor is Respondent affiliated to Complainant in any form. There is no evidence that Respondent is known by the disputed domain name or owns any corresponding registered trademarks. Moreover, the structure of the disputed domain name – incorporating a misspelled version of Complainant's trademark FRANKE, by the addition of a second letter "n" - reflects Respondent's intention to create an association, and a subsequent likelihood of confusion, with Complainant. Such use of a misspelled version of Complainant's trademark FRANKE in the disputed domain name shows Respondent's attempt to capitalize on Internet users' possible errors when typing Complainant's trademark or reading the disputed domain name.
Furthermore, the disputed domain name resolves to a pay-per-click page. In similar circumstances, it has been held that the use of a domain name (that is identical or confusingly similar to a trademark) as a parking page that generates click through revenue does not give rise to rights or legitimate interests. Moreover, active MX records are associated to the disputed domain name. It is very likely that a corresponding fraudulent email address may be used.
For the foregoing reasons, Respondent has no rights or legitimate interests in respect of the disputed domain name,

According to Complainant the disputed domain name is registered and is being used in bad faith. The structure of the disputed domain name shows that Respondent registered it having Complainant and its FRANKE trademark in mind. It reflects Respondent's clear intention to create an association, and a subsequent likelihood of confusion, with Complainant's trademark in Internet users' mind.

Furthermore, the disputed domain name resolves to a pay-per-click page. Complainant submits that when it is a situation of typosquatting combined with the fact that the disputed domain name resolves to a parking page with pay-per-click links, this is an indication of bad faith, and it does not show any possible good faith use to which the disputed domain name may be put by Respondent.

Respondent:

No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(i)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety or where a disputed domain name consists of a common, obvious or intentional misspelling of a trademark. Complainant has established that it is the owner of trademark registrations for FRANKE. The disputed domain name incorporates the entirety of the well-known FRANKE trademark as its distinctive element. The addition of the letter "n" in the disputed domain name as a typical case of typosquatting, is insufficient to avoid a finding of confusing similarity as the FRANKE trademark remains the dominant component of the disputed domain name.
The top-level domain "com" in the disputed domain name may be disregarded.
The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. The pay-per-click use of the disputed domain name does not represent a bona offering of goods or services. Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the FRANKE trademark. Respondent knew or should have known that the disputed domain name included Complainant's well-known mark.

The undisputed submission that there are active MX records connected to the disputed domain name, suggests that it is unlikely that Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an e-mail phishing scheme impersonating the Complainant.

The Panel further notes the obvious typosquatting consisting of the insertion of the letter "n" in the disputed domain name indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **frannke.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-07-12

Publish the Decision