Decision for dispute CAC-UDRP-106667

Case number	CAC-UDRP-106667
Time of filing	2024-07-04 10:03:58
Domain names	beforbank.xyz, securee-bforebankcom.com

Case administrator

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

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	CELINE CHEVALLIER

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 names.

IDENTIFICATION OF RIGHTS

The Complainant's name is BFORBANK and it is the owner, among others, of the following registered trademark:

- EU trademark registration N° 8335598 for the word BFORBANK, applied for on 2 June 2009 and registered for goods and services of classes 9, 35, 36 and 38.

Moreover, the Complainant is also the owner, among others, of several domain names that include the word BFORBANK, such as the domain name <bforbank.com> registered on 15 January 2009.

FACTUAL BACKGROUND

According to the Complainant, BFORBANK is an online bank launched in October 2009 by Crédit Agricole Regional Banks.

BFORBANK offers daily banking, savings, investment and credit (consumer and real estate) services to over 230.000 clients.

On 27 June 2024 the Respondent registered the disputed domain names <beforbank.xyz> and <securee-bforebankcom.com>.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names have been registered and are 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 the 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 names are confusingly similar to the Complainant's trademark

The Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark BFORBANK.

According to the Complainant, the addition of the letter "E" between "B" and "F" in the disputed domain name <beforbank.xyz> is characteristic of a typo-squatting practice intended to create a confusing similarity between the Complainant's trademark and the disputed domain name. The Complainant refers to past panels that held that slight spelling variations do not prevent a domain name from being confusingly similar to the Complainant's trademark (see WIPO Case No. D2020-3457, ArcelorMittal (Société Anonyme) v. Name Redacted: "As the disputed domain name differs from the Complainant's trademark by just two letters, it must be considered a prototypical example of typosquatting – which intentionally takes advantage of Internet users that inadvertently type an incorrect address (often a misspelling of the complainant's trademark) when seeking to access the trademark owner's website. WIPO Overview 3.0 at section 1.9 states that "[a] domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element."").

According to the Complainant, the addition of the terms "COM", referring to a generic Top-Level Domain extension, and "SECUREE" (a misspelled version of the term "SECURE") along with the addition of the letter "E" between "R" and "B" in the disputed domain name <securee-bforebankcom.com> is not sufficient to escape the finding that this disputed domain name is confusingly similar to the Complainant's trademark.

Moreover, the Complainant contends that the addition of the generic Top-Level Domain extension ".COM" or ".XYZ" is typically disregarded under the confusing similarity test, as the extension is a standard requirement for registration.

These findings are not being disputed by the Respondent and the Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademark.

2. 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 names.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain names within the meaning of Paragraph 4(a)(ii) of the Policy.

The Complainant asserts that the name of the Respondent listed in the Whois database differs from the disputed domain names, which may indicate that the Respondent is not commonly known by the disputed domain names.

The Complainant further states that the Respondent is not affiliated with, nor authorized or licensed by the Complainant to make any use of the Complainant's trademark or apply for registration of the disputed domain names. In addition, the Complainant asserts that it does not carry out any activity for, nor has it any business with the Respondent.

The Complainant submits that the disputed domain names resolve to a webpage displaying information that may be deceptive. This circumstance is sufficient to establish prima facie that the Respondent's use of the disputed domain names is not in connection with a bona fide offering of goods or services.

The Panel finds that the Complainant has shown that the Respondent is not commonly known by the disputed domain names and has not made legitimate use of the disputed domain names for a bona fide offering of goods or services. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

3. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names were registered and are being used in bad faith.

The Complainant contends that by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web sites or other on-line locations, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement, within the meaning of Paragraph 4(b)(iv) of the Policy.

The fact that the Respondent has registered domain names that are confusingly similar to the Complainant's BFORBANK trademark indicates that the Respondent knew of the Complainant's trademark at the time of registration of the disputed domain names. If the Respondent had carried out even a basic Google search in respect of the word "BFORBANK", this would have yielded obvious references to the Complainant. Therefore, it is more than likely that the disputed domain names would not have been registered if it were not for the Complainant's trademark.

Moreover, the Complainant states that the misspelling of the trademark BFORBANK in the domain names was intentionally designed to be confusingly similar with the Complainant's trademark. Past Panels have seen such actions as evidence of bad faith (See Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines: "In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microssoft.com> domain name indicates that Respondent is typo-squatting, which is a further indication of bad faith registration and use pursuant to Policy ¶ 4(a)(iii).").

Furthermore, the Complainant demonstrates that the disputed domain names resolve to a 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 trademark, which constitutes evidence of bad faith.

In light of the above and given the lack of response by the Respondent, the Panel finds that the disputed domain names were registered and are being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **beforbank.xyz**: Transferred
2. **securee-bforebankcom.com**: Transferred

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2024-08-08

Publish the Decision