Decision for dispute CAC-UDRP-106692

Case number	CAC-UDRP-106692
Time of filing	2024-07-12 14:11:47
Domain names	bforbk-app.com

Case administrator

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

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Josephine Lafarge

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 trademark BFORBANK, with registrations such as the European trademark n°8335598 registered since June 2, 2009.

FACTUAL BACKGROUND

The disputed domain name was registered on March 12, 2024 and is inactive.

PARTIES CONTENTIONS

As set forth further below, the Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. 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). The abbreviation “BK” stands as an abbreviation for “BANK”. The addition of the generic term “APP” (short for “application”) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark BFORBANK. See CAC Case No. 106444 BFORBANK v. Todd Reagor (Bitcoinwebhosting.net): “The disputed domain name <bforbk-contact.com> contains the Complainant’s trademark “BFORBK” dominant element. Only the absence of the letters “AN” differs the disputed domain name from the Complainant’s trademark wording. Moreover, the disputed domain name adds the general word “CONTACT”. No further adjustments were made to distinguish it from the Complainant’s trademark. The addition of the gTLD <.com> does not change the overall impression of the disputed domain name either [...] Therefore, the disputed domain name is considered to be confusingly similar to the relevant trademark."

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). 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. So, the Respondent is not known as the disputed domain name. The Complainant contends that Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not appear to carry out any activity for, nor has any business with the Respondent. Thus, the Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not appeared to challenge any of these contentions, and so the Panel finds the Complainant has satisfied its burden of proof on this element 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). The French Respondent has registered the disputed domain name some fifteen years after the EUTM registration of the trademark BFORBANK by the Complainant. 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. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, despite its registration five months ago. Further, Complainant contends it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law. On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith. The Respondent has not appeared to contest any of these contentions.

While the disputed domain name appears only to be passively held by Respondent, the Panel finds that there is sufficient use of the domain name because it corresponds to a banking entity, and likely can only be used for nefarious purposes even if it has not been so used to date. This Panel believes that is "something more" under the Telstra line of cases, so as to find bad faith use in this case.

The Panel agrees with Complainant's unchallenged contentions, and thus finds the Respondent has met its burden of proof as to this element 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

The French Respondent has registered the disputed domain name some fifteen years after the EUTM registration of the trademark BFORBANK by the Complainant. Given the distinctiveness of the Complainant's trademarks and reputation, the Panel finds that it is inconceivable that the Respondent could have registered and used (even by passively holding) the disputed domain name without actual knowledge of Complainant's rights in the trademark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2024-08-15

Publish the Decision