Decision for dispute CAC-UDRP-106798

Case number	CAC-UDRP-106798
Time of filing	2024-08-15 10:12:44
Domain names	gestion-bforbk.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Viviane Nowak

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 has evidenced to be the owner of the following trademark registration:

- Word mark BFORBANK, European Union Intellectual Property Office (EUIPO), registration No.: 008335598, registration date: December 8, 2009, status: active.

Also, the Complainant has substantiated to own since 2009 the domain name <bforbank.com> which resolves to the Complainant's main website at "www.bforbank.com", used to promote the Complainant's online banking services and related products.

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.

No administratively compliant Response has been filed.

RIGHTS

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.

PRINCIPAL REASONS FOR THE DECISION

First, the Panel finds that the disputed domain name <gestion-bforbk.com> is confusingly similar to the Complainant's BFORBANK trademark, as it incorporates the latter almost entirely, simply in a typo-squatted version by omitting the letters "a" and "k", and also added by the descriptive term "gestion" (the French term for "management"). Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark. Moreover, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that a domain name which consists of a common, obvious or intentional misspelling of the complainant's trademark (i.e. a typo-squatting) is still considered to be confusingly similar to the relevant trademark for purposes of the first element under the UDRP. Accordingly, the fact that the disputed domain name obviously includes an intentional misspelling/typo-squatting of the Complainant's BFORBANK trademark is not at all inconsistent with the finding of confusing similarity, especially given the fact that the Complainant's BFORBANK trademark is still at least recognizable within the disputed domain name. Finally, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive or other terms, such as e.g. the French term "gestion", is not capable to dispel the confusing similarity arising from such incorporation of the Complainant's BFORBANK trademark in the disputed domain name.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Second, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain name, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain. The Respondent has not been licensed or otherwise authorized to use the Complainant's BFORBANK trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the terms "bforbank" and/or "bforbk" on its own. Finally, the Complainant has demonstrated that the disputed domain name does not connect to any relevant content on the Internet, but is passively held instead. Many UDRP panels, however, have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, may not of itself confer rights or legitimate interests in a disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Third, the Panel holds that the disputed domain name was registered and is being used by the Respondent in bad faith. There is a consensus view among UDRP panelists that a passive holding of a disputed domain name may, in appropriate circumstances, be consistent with the finding of bad faith, in particular in circumstances in which, for example, a complainant's trademark is well-known, and there is no conceivable use that could be made of the disputed domain name and would not amount to an infringement of the complainant's trademark's rights. In the case at hand, in the absence of any other reasonable explanation as to why the Respondent should rely on the disputed domain name which includes the Complainant's undisputedly widely reputed BFORBANK trademark in a typo-squatted version, and given that the Respondent has brought forward nothing in substance relating to the intended use of the disputed domain name, the Panel finds that the Respondent has registered and is making use of the disputed

domain name in a manner which at least takes unjustified and unfair advantage of the Complainant's BFORBANK trademark's reputation and must, therefore, be considered as registered and being used in bad faith within the meaning of the Policy. Such finding also takes into consideration that the disputed domain name obviously is an intentional typo-squatted version of the Complainant's BFORBANK trademark and was registered long time after the Complainant had acquired reputation in such trademark which is why the disputed domain name as such is inconceivable of being of a good faith nature.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Stephanie Hartung**

DATE OF PANEL DECISION 2024-09-11

Publish the Decision