Decision for dispute CAC-UDRP-107016

Case number	CAC-UDRP-107016
Time of filing	2024-10-31 10:03:28
Domain names	bfobankonline.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BFORBANK

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	eljawariya

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 EU word trademark "BforBank", reg. no. 008335598, application date 2 June 2009, registered in classes 9, 35, 36, 38.

("**Complainant's Trademark**").

The disputed domain name <bfobankonline.com> was registered on 27 October 2024.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

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

(b) The Complainant is the owner of Complainant's Trademark and number of domain names, including the same distinctive wording BFORBANK, such as the domain name <bforbank.com>, registered since 16 January 2009.

(c) The disputed domain name was registered on 27 October 2024 and resolves to a website offering interior and exterior design goods and services.

In addition, the Panelist also reviewed the website operated under the disputed domain name and found that the website is (allegedly) operated by the company SARL BFB EXOTIQUE with its seat at 20 Route de Woël 55210 Saint-Maurice-sous-les-Côtes, France, which also operates its (presumably primary) website at: https://bfbexotique.fr.

PARTIES CONTENTIONS

COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(a) The disputed domain name is confusingly similar to Complainant's Trademark. The deletion of the letter “R” in the term “BFORBANK” and the addition of the generic term “ONLINE” (referring to the Complainant’s online banking activities) is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's Trademark. It does not change the overall impression of the designation as being connected to the Complainant’s Trademark and does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated.

(b) The Respondent is not known by the Complainant and 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 use the Complainant’s Trademark or apply for registration of the disputed domain name. Furthermore, the disputed domain resolves to a website offering interior and exterior design goods and services which are unrelated to the disputed domain name. Thus, the Respondent has registered the disputed domain name with the aim to attract internet users and to divert Internet traffic initially destined to the Complainant into its own website by creating a likelihood of confusion. This does not constitute a bona fide offering of goods. Consequently, the Respondent has no right or legitimate interest in respect of the disputed domain name.

(c) The Respondent has registered the disputed domain name several years after the registration of the Complainant’s Trademark, which has established a strong reputation. Thus, given the distinctiveness of the Complainant's Trademark and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's Trademark. Furthermore, the disputed domain name resolves to a website offering interior and exterior design goods and services. By diverting Internet users to its own website and promoting services unrelated to Complainant’s branded services and Complainant's Trademark, the Respondent is taking advantage of the confusing similarity between the domain name and Complainant’s Trademark in order to profit from the goodwill associated with the mark. As a result, the Respondent has registered and is using the disputed domain name in bad faith.

For these reasons, the Complainant seeks transfer of the disputed domain name to the Complainant.

RESPONDENT:

The Respondent did not provide any response to the complaint.

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 Uniform Domain Name Dispute Resolution Policy ("**UDRP**" or "**Policy**").

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant’s Trademark. The slight spelling variation (omission of letter "r") and addition of a non-distinctive term "online" cannot diminish confusing similarity of the disputed domain name to Complainant`s Trademark.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent has not been authorized by the Complainant to use the disputed domain name or Complainant's Trademark. The Respondent is also not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. On the website operated under the disputed domain name, interior and exterior design goods and services are being offered, which are completely unrelated to the business of the Complainant. The website under the disputed domain name is (allegedly) operated by the French company SARL BFB EXOTIQUE. Although the Panel has no information as to the relationship of the Respondent to the company SARL BFB EXOTIQUE, it is clear that the neither the content of such website nor the name of its operator or the Respondent are anyhow related to the disputed domain name. Under such circumstances, the Panel fully agrees with the Complainant, that the website operated under the disputed domain name does not establish legitimate interest of the Respondent in the disputed domain name as it cannot be considered bona fide offering of goods and services within the meaning of paragraph 4(c)(i) of the Policy.

Therefore the Panel concludes that the Respondent has 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

As stated above, the website under the disputed domain name offers goods and services unrelated to those of the Complainant. Also, the disputed domain name is unrelated to Respondent, the alleged operator of the website (SARL BFB EXOTIQUE) and the content of such website. SARL BFB EXOTIQUE operates its primary website under the domain name <bfbexotique.fr> which corresponds to its name. The relationship of the Respondent to the company SARL BFB EXOTIQUE is not clear, however, in the opinion of the Panel there are only two possibilities: Either, the Respondent is somehow related to this company and then both in concert use the disputed domain name to misleadingly attract internet users that intend to visit the website of the Complainant to the website under the disputed domain name by creating a likelihood of confusion with the Complainant's Trademark. Or, the

Respondent is unrelated to this company and in such case the Respondent copied the web presentation of that company without such company's authorization in (failed) attempt to create legitimate interest to the disputed domain name. In Panel's opinion, the latter possibility appears more probable due to the fact that the website under disputed domain name includes invitation to a trade fair that occurred in September 2024 (i.e. prior to the registration of the disputed domain name) and many links on the website operated under the disputed domain name are dysfunctional (and those that work refer to website <bfbexotique.fr>). Regardless of which possibility is true, the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bfobankonline.com**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2024-11-23

Publish the Decision