Decision for dispute CAC-UDRP-107084

Case number	CAC-UDRP-107084
Time of filing	2024-11-25 10:34:00
Domain names	bforbaank.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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 has demonstrated ownership of rights in the trademark BFORBANK for the purposes of standing to file a UDRP complaint.

The Complainant has provided evidence of ownership of the European Union trademark registration No. 008335598 for BFORBANK (word mark), filed on June 2, 2009, and registered on December 8, 2009, in classes 9, 35, 36 and 38.

FACTUAL BACKGROUND

The Complainant is a French online bank launched in October 2009 by the Crédit Agricole Regional Banks, offering daily banking, savings, investment and credit services.

The Complainant is the owner of the domain name <bforbank.com>, which was registered on January 16, 2009, and is used by the Complainant to provide its online banking services.

The disputed domain name <bforbaank.com> was registered on November 1, 2024, and does not resolve to an active website.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <bforbaank.com> is confusingly similar to its trademark BFORBANK and submits that this is a clear case of typosquatting, since the disputed domain name contains an obvious misspelling of the Complainant's trademark, consisting of the addition of a single letter "a" to the mark.

The Complainant also asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name because: i) based on the Whois information of the disputed domain name, the Respondent is not known as the name encompassed in the disputed domain name; ii) the Respondent is not known by the Complainant, is not affiliated with or authorized by the Complainant in any way, nor does it carry out any activity for, or any business with, the Complainant; iii) the Respondent has not been authorized or licensed by the Complainant to use the Complainant's trademark or register the disputed domain name; iv) the Respondent's use of the disputed domain name in connection with an inactive website does not amount to a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Complainant claims that the Respondent registered the disputed domain name in bad faith because, given the distinctiveness and well-known character of the trademark BFORBANK and considering the Complainant had already been extensively using its trademark well before the Respondent registered the disputed domain name, it is inconceivable that the Respondent, which is French, could have registered the disputed domain name without actual knowledge of Complainant's trademark rights.

As to the use of the disputed domain name in connection with an inactive website, the Complainant submits that it is not possible to conceive any plausible actual or contemplated active use of the disputed 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.

The Complainant also submits that, as prior UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

RESPONDENT

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).

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

1. The Complainant has provided evidence of ownership of a valid trademark registration for BFORBANK.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark BFORBANK as it reproduces

the trademark in its entirety with the mere addition of a single letter “a”, which is not sufficient to prevent a finding of confusing similarity. As stated in prior UDRP decisions, a domain name which consists of a common, obvious, or intentional misspelling of a trademark, is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

As to the gTLDs “.com”, as established in a number of prior UDRP cases, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy.

In view of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights for the purpose of paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent’s rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent’s right or legitimate interest in the disputed domain names could be inferred.

The Panel notes that, based on the Complainant’s submissions, the Complainant has not authorized the Respondent to use its trademark BFORBANK or to register and use the disputed domain name. Moreover, there is no evidence that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name.

As highlighted above, the disputed domain name, confusingly similar to the Complainant’s trademark, is not resolving to an active website. The Panel finds that the Respondent’s passive holding does not amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name without intention to misleadingly divert the consumers or to tarnish the Complainant’s trademark.

Therefore, the Panel finds that the Complainant has demonstrated that the Respondent has no rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy.

3. As to bad faith at the time of registration, the Panel finds that, in light of the Complainant’s prior registration and use of the trademark BFORBANK in connection with the Complainant’s online banking services, provided via the Complainant’s website “www.bforbank.com”, and considering the Respondent is based in France where the Complainant is based and operates, the Respondent knew or should have known of the Complainant’s trademark when it registered the disputed domain name in November 2024. Moreover, UDRP Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

As indicated above, the disputed domain name is not pointed to an active website. As established in a number of prior UDRP cases, the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only positive action but also passive holding. In the present case, considering i) the distinctiveness of the Complainant’s trademark BFORBANK, ii) the composition of the disputed domain name, which consists of a misspelling of the Complainant’s trademark BFORBANK and is almost identical to the Complainant’s domain name <bforbank.com>; iii) the Respondent’s failure to file a Response, and iv) the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the current passive holding of the disputed domain name does not prevent a finding of bad faith use.

Therefore, the Panel finds that the Complainant has also demonstrated that the Respondent registered and is using the disputed domain name in bad faith according to 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. **bforbaank.com**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2025-01-03

Publish the Decision