

ADMINISTRATIVE PANEL DECISION

Bforbank v. khalifah al amri
Case No. D2023-2469

1. The Parties

The Complainant is Bforbank, France, represented by Nameshield, France.

The Respondent is khalifah al amri, United States of America.

2. The Domain Name and Registrar

The disputed domain name <fr-bforbank.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 8, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on the same day.

On June 8, 2023, the Center informed the parties in English and French, that the language of the registration agreement for the disputed domain name is English. On the same day, the Complainant submitted the Complaint translated into English.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 30, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on July 5, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

It results from the Complainant's allegations that the Complainant is an online bank launched in October 2009 by the Crédit Agricole Regional Banks. It offers daily banking, savings, investment and credit (consumer and real estate) services for circa 240,000 customers.

The Complainant is the registered owner of European Union trademark registration No. 008335598 for BFORBANK (word), registered on December 8, 2009, for goods and services in classes 9, 35, 36, and 38.

The disputed domain name was registered on May 29, 2023, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant owns and uses the domain name <bforbank.com> (registered on January 16, 2009), which resolves to its official website.

The Complainant contends that its trademark is distinctive and well known in France.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's trademark BFORBANK, as the disputed domain name incorporates the entirety of the Complainant's trademark BFORBANK. The addition of the term "fr" (abbreviations for "France") is considered not sufficient to escape the finding that the disputed domain name is confusingly similar to its trademark BFORBANK.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not identified in the Whois database as the disputed domain name and therefore is not known as the disputed domain name; in addition, neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BFORBANK, or apply for registration of the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, given the distinctiveness of its trademark BFORBANK and reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in the trademark. Furthermore, the disputed domain name is inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of 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.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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 therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of trademark registration for BFORBANK as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7).

This Panel shares this view and notes that the Complainant’s registered trademark BFORBANK is fully included in the disputed domain name, preceded by the letters “fr” and hyphen. Furthermore, it is the view of this Panel that the addition of the terms “fr” and hyphen in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark since the Complainant’s trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1). In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and, in particular, did not authorize the Respondent's use of the trademark BFORBANK, e.g. by registering the disputed domain name comprising the said trademark entirely. Moreover, the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name contains the Complainant's trademark BFORBANK preceded by the letters "fr" - which are the geographical abbreviation for France, where the Complainant is located (and hyphen), and which suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#) at section 2.5.1.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1).

Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

Based on the evidence submitted by the Complainant, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's registered trademark BFORBANK preceded by the letters "fr" - which are the geographical abbreviation for France, where the Complainant is located. Registration of the disputed domain name in awareness of the BFORBANK mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith.

The disputed domain name does not resolve to an active website. In this regard, the Panel notes that the current passive holding does not preclude a finding of bad faith (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In fact, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith: (1) the Respondent failed to submit a formal response or to provide any evidence of actual or contemplated good-faith use; (2) the Respondent originally used a privacy service hiding its identity; (3) the implausibility of any good faith use to which the disputed domain name may be put, and (4) the degree of reputation of the Complainant's trademark (see [WIPO Overview 3.0](#) at section 3.3).

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <fr-bforbank.com>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: July 18, 2023