

ADMINISTRATIVE PANEL DECISION

BFORBANK v. alexandre monserrat
Case No. D2022-1972

1. The Parties

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

The Respondent is alexandre monserrat, Finland.

2. The Domain Name and Registrar

The disputed domain name <bforbankfrance.net> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2022. On June 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 2022 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 June 7, 2022.

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 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 6, 2022.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on July 13, 2022. 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

The Complainant, BFORBANK, is an online bank launched in October 2009 by the CREDIT AGRICOLE GROUP which offers daily banking, savings, investment and credit (consumer and real estate) services (Annex 3 of the Complaint).

The Complainant is the owner of several trademarks BFORBANK, including:

European Union Trademark Registration No. 8335598 BFORBANK, registered since December 8, 2009 (Annex 4 of the Complaint).

The Complainant also owns several domain names, including the trademark BFORBANK, such as <bforbank.com>, registered since January 16, 2009. (Annex 5 of the Complaint).

The disputed domain name <bforbankfrance.net> was registered on May 7, 2022, and resolves to a page entitled “Espace Client: accédez à vos comptes - BforBank” (which in English means “Customer area: “access your accounts” in French) and asking the Internet users their credentials.

5. Parties’ Contentions

A. Complainant

The Complainant claims that the disputed domain name <bforbankfrance.net> is confusingly similar to its trademark BFORBANK in which it has rights, that the Respondent has no rights or legitimate interests in the disputed domain name, which it has registered and is using in bad faith.

The Respondent is not known by the Complainant. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Complainant contends that the Respondent cannot justify the use of the trademark BFORBANK, and is not making a legitimate noncommercial or fair use of the disputed domain name.

Furthermore, the disputed domain name resolves to a page entitled “Espace Client: accédez à vos comptes - BforBank” (which means “Customer area: “access your accounts” in French) and asking the Complainant’s customers their credentials (Annex 6 of the Complaint). This page copies the Complainant’s official customer access (Annex 7 of the Complaint).

Therefore, the Complainant contends that the Respondent registered the disputed domain name in order to create a likelihood of confusion and phish for personal banking information, which is not a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's BFORBANK trademark.

The disputed domain name <bforbankfrance.net> incorporates the Complainant's trademark BFORBANK in its entirety with the addition of the word "France", which does not prevent a finding of confusing similarity.

The ".net" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark BFORBANK in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under section 6.C of this Decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that it intends to use the disputed domain name for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry.” Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trade name and trademark BFORBANK mentioned in Section 4 above (Factual Background) when it registered the disputed domain name <bforbankfrance.net> on July 5, 2022. By that time, the Complainant’s trademark had been registered and used for over ten years.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant’s distinctive trademark BFORBANK. The country name “France” included in the disputed domain name contributes to increase confusion among Internet users who very likely will be lead to believe that the website to which the disputed domain resolves belongs to or is affiliated with the Complainant, particularly since they both offer the same type of services.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a website that imitates the Complainant’s official customer access (Annex 7 of the Complaint) offering similar services are all indications of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

For the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <bforbankfrance.net> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: July 27, 2022