

ADMINISTRATIVE PANEL DECISION

Factor Systems, Inc. v. Susan Gould
Case No. D2023-1812

1. The Parties

The Complainant is Factor Systems, Inc., United States of America (“United States”), represented by Fieldfisher Belgium, Belgium.

The Respondent is Susan Gould, United States.

2. The Domain Name and Registrar

The disputed domain name <btregional.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 24, 2023. On April 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2023, 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 (Unknown respondent/ Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 3, 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 May 8, 2023.

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 May 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 6, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on June 20, 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

The Complainant is a business services company established as a corporation under Delaware, United States law in 2002 and headquartered in Lawrenceville, New Jersey, United States. The Complainant is an affiliate of BTRS Holdings, Inc., traded on the NASDAQ stock exchange as "BTRS". BTRS Holdings, Inc. was acquired in December 2022 by EQT Partners, a global investment organization based in Sweden.

The Complainant is a leading provider of cloud-based software and integrated payment processing solutions designed to simplify and automate business-to-business (B2B) commerce. It does business under the trade name "BILLTRUST" with the initials "BT", operating a proprietary, cloud-based accounts receivable (AR) platform called "BILLTRUST". This is marketed and provided through the Complainant's website at "www.billtrust.com". The Complaint furnishes examples of online customer reviews showing that its customers commonly refer to the Complainant and its website platform and associated mobile app by the initials "BT".

The Complainant holds numerous BILLTRUST word and design trademarks, including the following:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE
BILLTRUST (word)	United States	3397408	March 18, 2008
BILLTRUST (word)	United Kingdom	UK00003425515	November 22, 2019
BILLTRUST CUBE LOGO (design) 	United Kingdom	UK00003425514	November 22, 2019
BILLTRUST CUBE LOGO (design) (see above)	European Union	018118468	January 8, 2020
BILLTRUST (word)	International (designation in Canada)	1520256	February 4, 2020
BILLTRUST (word)	United States	6017467	March 24, 2020
BILLTRUST CUBE LOGO (design) (see above)	United States	6017469	March 24, 2020
BILLTRUST (word)	European Union	018118465	May 22, 2020

The Registrar reports that the disputed domain name was created on August 10, 2021, and is registered to the Respondent Susan Gould, listing no organization and showing a postal address in the State of California, United States, and an Outlook (rather than a company) email address.

The Complaint attaches screenshots showing that the disputed domain name has resolved to a website headed "Bill Trust Bank", displaying a design logo similar in colors and design to the Complainant's logo, as follows:



The Respondent's website advertised financial services including online banking and bill payment services. The website solicited login credentials, personal financial information, and deposits. The Respondent's website claimed that the Respondent, which listed a postal address in Melbourne, Australia, was authorized by the Prudential Regulation Authority and regulated by the Financial Conduct Authority. However, no such entity is listed with either authority in the United Kingdom or Australia.

The Complaint shows that the Respondent's website has been reported by *The Daily Scam* as a "fake online bank / trading scheme website". The Complainant also demonstrates that similar websites, with the same photos, the same Melbourne address, and nearly identical text appeared in connection with similarly constructed domain names, mostly now expired, evidently targeting the Complainant or Barclay's Bank: <bclregionalsuk.com>, <usbilltrust.com>, <billtrustsbanking.com>, <billtrustsonline.com>, and <billtrustfundbank.com>. These are also listed as reported scam sites on the consumer protection website, "Artists Against 419" ("wiki.aa419.org").

At the time of this Decision, the disputed domain name resolves either to a pay-per-click ("PPC") landing page or to a malware warning page, depending on the browser used.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is confusingly similar to its registered BILLTRUST trademark, which the Respondent has no permission to use and in which it has no other evident rights or legitimate interests. Instead, the Complainant contends, the Respondent has used the disputed domain name "to direct to a website that impersonates Complainant, in all likelihood in order to deceive Complainant's customers and attempt steal their login credentials or their personal information, or to perpetrate other illegal activities".

The Complainant argues that the Respondent's website falsely claims that the Respondent is a regulated financial services firm, as it has on multiple other occasions using similar domain names impersonating the Complainant or Barclay's Bank. The Complainant reasons that these deceptive practices represent bad faith in the registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the 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 domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall 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".

A. Identical or Confusingly Similar

The first element of a UDRP complaint "functions primarily as a standing requirement" and entails "a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant holds trademark registrations for BILLTRUST as a word mark. Also, the Complainant demonstrates that the initials “BT” are also commonly recognized in association with that mark. The Complainant does business by its initials BTRS, a string that appears multiple times on the Complainant’s website and which is used for the parent company’s stock listing on the NASDAQ exchange. Customers commonly refer to the Complainant and its principal BILLTRUST-branded AR cloud service by the further abbreviated version “BT”. A dominant feature of a mark, such as its abbreviation, may be sufficient for the mark to be recognizable in a domain name, particularly when the mark is commonly known by that abbreviation. See [WIPO Overview 3.0](#), section 1.7 and *Philip Morris USA Inc. v. Steven Scully, J&S Auto Repair*, WIPO Case No. [D2015-1001](#) (<pmcannabis.com>), where the panel found that the common law trademark PHILIP MORRIS was abbreviated “PM” in the marketplace and by the complainant itself. Such is the case here. Moreover, while the content of the website is typically disregarded under the first element analysis, the Panel notes here that the website at the disputed domain name displays the words “Bill Trust Bank” with a design logo similar in colors and design to the Complainant’s logo, which confirms confusing similarity. See [WIPO Overview 3.0](#), section 1.5. The addition of the dictionary word “regional” in the disputed domain name does not avoid confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

As usual, the addition of the Top-Level Domain “.com” may be disregarded as a standard registration requirement (see *id.* section 1.11.1).

The Panel concludes that the Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

- (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 or to tarnish the trademark or service mark at issue.

Because a respondent in a UDRP proceeding is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainant has demonstrated trademark rights and a lack of permissive use. The Complainant shows that the Respondent has used the disputed domain name (and evidently other domain names) only for an imitative and deceptive website that falsely represents the Respondent as a regulated financial services company, soliciting personal financial information and deposits under false pretenses. This cannot be considered a *bona fide* offering of goods or services, nor is there evidence of an actual legal entity with a corresponding name. The Panel finds, therefore, that the Respondent has failed to meet its burden of production and concludes that the Complainant prevails on the second element of the Policy.

The Panel concludes that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(b), furnishes a list of circumstances that “shall be evidence of the registration and use of a domain name in bad faith”, including the following:

“(iv) by using the domain name, you [respondent] have intentionally attempted to attract, for commercial gain, Internet users to your [respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your [respondent’s] website or location or of a product or service on your website or location.”

The Respondent was clearly aware of the Complainant and its trademarks, including the registered design mark that the Respondent imitated on the Respondent’s website. The Respondent appears to have registered several similar domain names and used them for almost identical imitative websites falsely presented as online banking and bill payment sites headed with the Complainant’s name and a similar logo, claiming to be a regulated financial services company and soliciting personal data and deposits. This practice not only accords with the example of bad faith furnished in the Policy, paragraph 4(b)(iv), but it also indicates the likelihood of phishing, fraud, and possibly other non-trademark abuses that have also been deemed bad faith within the meaning of the Policy. See [WIPO Overview 3.0](#), section 3.4. The Respondent has not come forward to offer an alternative explanation.

The Panel finds bad faith in the registration and use of the disputed domain name on this record and concludes that the Complainant has established the third element 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 <btregional.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

July 4, 2023