

## **ADMINISTRATIVE PANEL DECISION**

Factor Systems, Inc. v. [Name Redacted]  
Case No. D2023-3316

### **1. The Parties**

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

Respondent is [Name Redacted]<sup>1</sup>.

### **2. The Domain Name and Registrar**

The disputed domain name is <bill-trust.com> and is registered with NameSilo, LLC (“Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on August 2, 2023. The same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from that in the Complaint (*i.e.*, Redacted for Privacy, <PrivacyGuardian.org> LLC) as well as providing other details related to the registration. The Center sent an email communication to Complainant on August 8, 2023 providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 10, 2023.

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

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on August 17, 2023. In accordance with the Rules, paragraph 5, the due

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<sup>1</sup> For the reasons discussed in elsewhere in this decision: (A) pursuant to the Policy, paragraph 4(j), the Panel finds this is an exceptional case and has redacted name of the registrant from this decision, and (B) pursuant to the Rules, paragraph 16(b), the Panel determines that Annex 1 to this decision, which identifies the registrant and instructs the Registrar to transfer the disputed domain name in accordance with this decision, shall not be published.

date for Response was September 6, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 14, 2023.

The Center appointed Debra J. Stanek as the sole panelist in this matter on September 26, 2023. The Panel finds that it was properly constituted. The Panel has submitted a Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

On October 3, 2023, the Center received an email message,<sup>2</sup> inquiring about this proceeding and disclaiming any knowledge of it. On October 4, 2023, the Center acknowledged receipt of the message and requested clarification of the sender's relationship with Respondent. On October 4, 2023, the Center received an email response from the sender whose name corresponded to the registrant's personal name, stating that he had not registered and did not own the disputed domain name and that someone must have used his identity.

#### **4. Factual Background**

Complainant provides cloud-based software and payment processing solutions for business-to-business commerce under the name "Billtrust," which it uses as its domain name, <billtrust.com>. Complainant owns trademark registrations for the mark BILLTRUST for bill payment and electronic payment services and computer software used for invoicing, payments, and collections in the United States, United Kingdom, and European Union.

The <bill-trust.com> domain name was registered on April 4, 2023. As of this writing, the domain name is not accessible. However, the Complaint includes screen shots showing that the page was once parked and, using a third-party service, included sponsored "pay-per-click" links. In addition, Respondent has apparently used the <bill-trust.com> domain name in an email address used to request payments from a third party.

#### **5. Parties' Contentions**

##### **A. Complainant**

##### **1. Identical or Confusingly Similar**

In addition to its common law rights in the mark BILLTRUST, Complainant owns several trademark registrations for the mark, including United States federal trademark registrations (Nos. 3,397,408 and 6,017,467 registered on February 4, 2020 and March 24, 2020 respectively) for certain bill and electronic payment services as well as cloud-based software used for invoicing, payment, and collections.

Respondent has registered a domain name consisting of Complainant's BILLTRUST mark. After disregarding the generic Top-Level Domain, the only difference—the use of hyphen between the terms "bill" and "trust" —is meaningless and does not prevent a finding of confusing similarity.

##### **2. Rights or Legitimate Interests**

There is no evidence that Respondent is commonly known or operates under the name "bill-trust." Internet searches of the term "bill-trust" disclose only references to Complainant. Further, a search using the European Union Intellectual Property Network's TMView search tool disclosed no results for a BILL-TRUST mark.

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<sup>2</sup> The message was signed in the name of two people with the same surname, one of which corresponded to the personal name of the named registrant.

There is no relationship between Complainant and Respondent. Complainant has not directly or indirectly authorized use of its trademark for use in the disputed domain name or anything else.

There is no evidence that Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, it has been parked with a third-party service which controls the content of the page and uses links to generate revenue. Instead, there is evidence that the disputed domain name is being used in a fraudulent way to impersonate Complainant. A customer of Complainant reported email messages from a “bill-trust.com” email address that had been received by a client of one of its affiliates. The messages requested payment of an invoice by wire transfer to an account that appeared to be fraudulent.

### **3. Registered and Used in Bad Faith**

The facts establish that Respondent registered and is using the disputed domain name in bad faith.

Respondent was well aware of Complainant’s business, trademarks, and domain name. Respondent used the disputed domain name to create an email address that itself used an acronym associated with one of Complainant’s customers. Using that email address, Respondent then attempted to impersonate Complainant by using a “bill-trust” email address to send invoices and request payment from a client of Complainant’s customer.

The disputed domain name is not otherwise used.

Respondent used a privacy shield (<PrivacyGuardian.org>) which made it difficult for Complainant to contact Respondent. Further, it appears that the information included in the underlying registration may also be fictitious—it appears to use the personal name and address, but not the business name, telephone number or email address, of the registrant:

- Complainant was not able to locate a company of that name in the Illinois corporation registry<sup>3</sup>, the National Corporation Directory, or EDGAR.
- The address used in the registration correlates to an Illinois business, apparently owned by the person named in the registration (the surname is the same and the given name is a common diminutive).
- The telephone number used in the registration is not the one publicly-associated with the business.
- The email address used in the registration is not the one publicly-associated with the business

### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

### **6. Discussion and Findings**

To prevail, a complainant must prove, as to the domain name at issue, that: (a) it is identical or confusingly similar to a mark in which the complainant has rights, (b) respondent has no rights or legitimate interests in respect to it, and (c) it has been registered and is being used in bad faith. Policy, paragraph 4(a). A respondent’s failure to respond to a complaint does not automatically result in a finding for the complainant who continues to have the burden of establishing each element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3. The Panel may, however, draw such inferences from Respondent’s default as appropriate. See Rules, paragraph 14(b).

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<sup>3</sup> The company name is essentially the same as the personal name—there is no space between the given name and surname and it is followed by a corporate identifier.

### **A. Identical or Confusingly Similar**

Complainant has established its rights in the mark BILLTRUST through the evidence of its trademark registrations.

The domain name at issue is not identical to Complainant's mark. However, disregarding the Top-Level Domain, Complainant's BILLTRUST mark is readily-recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.7 (confusing similarity typically involves assessing whether textual elements of a mark are "recognizable within the disputed domain name"). The addition of a hyphen between the "bill" and "trust" is minor and in no way prevents a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

The Panel finds Complainant has established the first element.

### **B. Rights or Legitimate Interests**

It does not appear that Respondent is commonly-known by the disputed domain name or that Complainant has authorized use of its mark in the disputed domain name. There is no evidence of any use (or preparations to use) the disputed domain name in connection with a *bona fide* offering or any indication that use of the disputed domain name is noncommercial or otherwise fair use.

The Panel concludes, see [WIPO Overview 3.0](#), section 2.1, that Complainant may prevail on this element by making out a *prima facie* case, shifting the burden of production to Respondent. The Panel finds Complainant has met its burden and presented a *prima facie* case. Respondent has not responded and Complainant has therefore established the second element.

### **C. Registered and Used in Bad Faith**

Complainant must establish that the disputed domain name was registered and is being used in bad faith.

The documentary evidence submitted by Complainant evidences registration and use of the disputed domain name as part of a scheme to defraud. The Panel concludes that Respondent actually knew of Complainant's mark and adopted and used it intending recipients believe that the communications were from Complainant.

Under these circumstances, the Panel concludes that it is most likely that Respondent is not the registrant named in the registration, and that Respondent provided false information and used a privacy service to conceal its identity in connection with fraudulent activities.

Considering these facts, including the adverse inferences that arise from Respondent's a failure to respond to the Complaint, the Panel finds that Complainant has established the third element.

## **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, <bill-trust.com> be transferred to Complainant.

/Debra J. Stanek/

**Debra J. Stanek**

Sole Panelist

Date: October 10, 2023