

ADMINISTRATIVE PANEL DECISION

ClearBank Limited v. Donna Teves

Case No. D2023-3524

1. The Parties

The Complainant is ClearBank Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Donna Teves, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <clearbkgroup.com> is registered with NetEarth One Inc. d/b/a NetEarth (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2023. On August 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 21, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 August 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2023.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on October 9, 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 clearing bank in the United Kingdom. The Complainant operates as a bank for financial institutions and as such offers no services to the general public. Instead, it delivers payment processing and banking services to financial companies, including banks, building societies, challenger banks and financial start-ups.

Among other registrations, the Complainant owns the following trademark registrations:

- United Kingdom trademark registration for CLEARBANK No. UK00915011141, registered on May 30, 2016, in classes 35, 36, 38, 42, and 45;
- United States trademark registration for CLEARBANK No. 5174439, registered on April 4, 2017, in classes 35, 36, 38, 42, and 45; and
- European Union trademark registration for the semi-figurative trademark CLEAR.BANK & design No. 016245847, registered on May 2, 2017, in classes 9, 35, 36, 38, 42, and 45.

The disputed domain name was registered on December 18, 2020.

At the time of filing of the Complaint, the disputed domain name resolved to a webpage welcoming Internet users to “Clear Financial Group” and inviting them to “click to proceed”. Once Internet users clicked on the proposed link, they were led to a webpage containing the Complainant’s trademark CLEAR.BANK and impersonating the Complainant. Furthermore, the website contained a mention of the Complainant’s previous registered office address on the “Contact us” page. The website also included an “Online Banking” section, where Internet users were invited to apply for an online banking account and enter a number of personal details, including social security number.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s trademarks. The use of the abbreviation “bk” for the word “bank” and the addition of the term “group” in the disputed domain name does not change the overall impression of the designation as being connected to the Complainant’s trademarks.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name, as the Respondent is not authorized by the Complainant to use the disputed domain name, and there is no indication that the Respondent is known under the disputed domain name. The Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services, nor is the Respondent making any legitimate noncommercial use of the disputed domain name.

The Complainant further contends that the disputed domain name was registered and used in bad faith, for the following reasons: (i) there is a likelihood of “initial interest confusion”; (ii) the disputed domain name resolves to a live website which has the “look and feel” of the Complainant’s previous website design and prominently features the Complainant’s previous logotype and registered office address, thus misleading Internet users into believing its website is an authorized website, or at least affiliated with or endorsed by the Complainant; (iii) the Respondent’s website lacks any disclaimer that would dispel the confusion regarding the disputed domain name and the associated website; and (iv) the potential use of misleading emails.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 registered by the respondent has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name differs from the Complainant's CLEARBANK trademark in that the term "bank" is replaced by the abbreviation "bk" and the term "group" has been added.

UDRP panels consider that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.8).

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9).

In the present case, the Panel accepts that the letters "bk" are likely to be perceived by Internet users as an abbreviation of the term "bank" (see for instance *Nordea Bank AB v. Domainsecrecy.com*, WIPO Case No. [D2010-1818](#)). Consequently, the trademark CLEARBANK remains clearly recognizable in the disputed domain name despite the abovementioned abbreviation "bk" and the addition of the term "group", which does not change the overall impression produced by the disputed domain name and does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Finally, UDRP panels accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see [WIPO Overview 3.0](#), section 1.11.1).

The Complainant has thus satisfied the condition set forth in paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent any authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The Respondent does not appear to have operated any *bona fide* or legitimate business under the disputed domain name and is not making a noncommercial or fair use of the disputed domain name. Instead, the disputed domain name resolved to a website impersonating the Complainant, which in the Panel's view demonstrates an obvious attempt on the part of the Respondent to mislead Internet users seeking the Complainant's services and website.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

In view of the above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and that the Respondent's silence corroborates such *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent uses the disputed domain name in connection with an active website purporting to be the official website of the Complainant and displaying the Complainant's CLEAR.BANK trademark and the Complainant's previous registered office address. There is no doubt accordingly that the Respondent was aware of the Complainant's trademark at the time of registration of the disputed domain name. The Panel therefore accepts that the disputed domain name was registered in bad faith.

The use of the disputed domain name by the Respondent was apt to mislead Internet users into believing that the website at issue was the official website of the Complainant, and that they could contact the Complainant by means of the contact form available on the website.

Under these circumstances, the Panel considers it likely that the Respondent intended to use the disputed domain name as a support for a potential fraudulent scheme, namely, to impersonate the Complainant and extract personal or financial data from Internet users visiting their website. Previous UDRP panels have found that such behavior amounts to use of a domain name in bad faith (see *Marriott International, Inc., Marriott Worldwide Corporation and The Ritz-Carlton Hotel Company, LLC v. Van C Bethancourt Jr., Andre Williams*, WIPO Case No. [D2018-2428](#), and *Accor v. SANGHO HEO, Contact Privacy Inc.*, WIPO Case No. [D2014-1471](#)).

By using the disputed domain name in such manner, the Respondent intentionally attempted to attract, for the purposes of commercial gain, Internet users to their website by creating a likelihood of confusion with the Complainant's mark as to the source and affiliation of this website. Such behaviour constitutes use in bad faith under paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in 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 <clearbkgroup.com> be transferred to the Complainant.

/Anne-Virginie La Spada/
Anne-Virginie La Spada
Sole Panelist
Date: October 24, 2023