

ADMINISTRATIVE PANEL DECISION

BforBank v. Nova Bertigo
Case No. D2024-3076

1. The Parties

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

The Respondent is Nova Bertigo, France.

2. The Domain Name and Registrar

The disputed domain name <bforbk-gestion.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 26, 2024. On July 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 29, 2024, 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 30, 2024, 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 July 30, 2024.

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 August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 23, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on August 27, 2024. 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 100% online bank, offering daily banking, savings, investment and credit services for more than 230 000 customers.

The Complainant is the owner of the European Union trademark BFORBANK No. 8335598, registered on December 8, 2009, for products and services in classes 9, 35, 36 and 38 (the “BFORBANK” Trademark”).

The Complainant is also the owner of the domain name <bforbank.com> registered since January 16, 2009.

The disputed domain name was registered on July 22, 2024, by the Respondent, an individual located in France. The disputed domain name resolves to a blank page and MX servers are configured.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the BFORBANK Trademark. The Complainant asserts that the deletion of the letters “AN” and the addition of the generic term “GESTION” (meaning “MANAGEMENT” in French) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the BFORBANK Trademark. The Complainant considers that, on the contrary, the addition of the term “GESTION” may confuse the Complainant’s customers into thinking that it refers to their customer accounts. Besides, the abbreviation “BK” stands as an abbreviation for “BANK”. Furthermore, the Complainant contends that the addition of the suffix “.COM” does not change the overall impression of the designation as being connected to the BFORBANK Trademark.

Then, the Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of the BFORBANK Trademark or apply for registration of the disputed domain name. Moreover, the Complainant stands that the disputed domain name resolves to a blank page, which confirms that the Respondent has no demonstrable plan to use the disputed domain name.

Finally, the Complainant stands that the disputed domain name was registered and is being used in bad faith. The Complainant highlights that the Respondent has registered the disputed domain name several years after the registration of the BFORBANK Trademark and that the Complainant is well known. Thus, given the distinctiveness of the BFORBANK Trademark and reputation, the Complainant contends that it is inconceivable that the Respondent, who is French, could have registered the disputed domain name without actual knowledge of the Complainant’s rights in the trademark. Finally, the Complainant submits that the disputed domain name is used in bad faith since it resolves to a blank page and that configuration of MX servers suggests that the disputed domain name may be actively used for email purpose.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves 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 has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Indeed, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. In this case, the disputed domain name includes the BFORBANK Trademark, with the deletion of the letters "AN". The Panel finds that this misspelling of the Complainant's trademark does not prevent a finding of confusing similarity notably since "BK" can be considered as an abbreviation of the term "BANK". [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms here, "gestion" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Indeed, it appears that the Respondent has not received any authorization to use the BFORBANK Trademark in any manner, including for the registration of domain names, and that the Respondent is not affiliated with nor authorized by the Complainant in any way.

Moreover, it appears from the non-use of the disputed domain name, which resolves to a blank page, that the Respondent is not using or has not prepared to use the disputed domain name with a bona fide offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain. There is also no evidence on record showing that the Respondent is commonly known by the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered the disputed domain name well after the registration of the BFORBANK Trademark by the Complainant.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, including typosquatting and addition of a term that can be widely used in the field of activity of the Complainant, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds 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 <bforbk-gestion.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: September 11, 2024