

## **ADMINISTRATIVE PANEL DECISION**

Bforbank v. Lily Ohayon  
Case No. D2023-2565

### **1. The Parties**

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

The Respondent is Lily Ohayon, France.

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

The disputed domain names <ww-bforbancom.com> and <ww-bforbankcom.online> are 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 June 14, 2023. On June 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint (“Not Identified / Redacted for privacy”). The Complaint was originally filed against three domain names registered by two different respondents. The Center sent an email communication to the Complainant on June 23, 2023, providing the registrant and contact information for the multiple underlying registrants disclosed by the Registrar and inviting the Complainant to amend the Complaint by adding the Registrar-disclosed registrants as formal Respondents and providing relevant argument or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all the disputed domain names are under common control. The Complainant filed an amended Complaint on June 30, 2023 and indicating that only the disputed domain names were part of this proceeding.

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 July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 16, 2023. The Center appointed Elise Dufour as the sole panelist in this matter on September 4, 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 an online bank launched in October 2009 by the Crédit Agricole Regional Banks in France.

The Complainant offers daily banking, savings, investment, and credit services for 240,000 customers.

The Complainant is the proprietor of a number of registered trademarks in respect of BFORBANK, including European Union Trademark number 008335598 BFORBANK registered on December 8, 2009.

The Complainant is also the owner of a number of domain names comprising Bforbank including the domain name <bforbank.com> registered in January 2009.

The disputed domain names were registered on June 5, 2023.

At the time the Complaint was filed, the disputed domain name <ww-bforbankcom.online> was inactive and the disputed domain name <ww-bforbancom.com> resolved to a parking page.

At the time of the drafting of the decision:

- <ww-bforbankcom.online> is not active;
- <ww-bforbancom.com> resolves to a web page that warns Internet users that they may be tricked into doing something dangerous like installing software or revealing [their] personal information as passwords, credit cards number.

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

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

The Complainant contends that (i) the disputed domain names are highly similar to the Complainant's trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain names; and (iii) the Respondent registered and is using the disputed domain names in bad faith. The Complainant requests the transfer of the disputed domain names.

(i) The Complainant claims that the disputed domain names are confusingly similar to its earlier trademarks, since the disputed domain names reproduce its BFORBANK trademarks together with the added letters "ww" and "com" and for one of the disputed domain name the deletion of the letter "k". For the Complainant, it is well established that, where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive, geographical, pejorative, meaningless, or other terms does not prevent a finding of confusing similarity. For the Complainant the dominant feature of the disputed domain names is the Complainant's mark BFORBANK, the adjunction the letters "ww" and "com" or suppression of the letter "k" are insufficient to avoid confusing similarity between the disputed domain names and the Complainant's trademark.

(ii) The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain names: the Complainant has not licensed or otherwise permitted the Respondent to use its trademark BFORBANK. The Respondent is not commonly known by the disputed domain names. In addition, the Respondent has made no use or preparation of use of the disputed domain names in relation to a *bona fide* offering of goods or services.

(iii) Due to the strong reputation and the distinctiveness of the trademark BFORBANK, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademark at the time the disputed domain names were registered. The Complainant also claims that the Respondent's use of the disputed domain names is made in bad faith, as the disputed domain names are not actively used and that it is not possible to conceive of any plausible actual or contemplated active use of the domain names by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. The Complainant finally claims that the Respondent's use of the disputed domain names is made in bad faith, as the disputed domain names are not actively used.

## **B. Respondent**

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

## **6. Discussion and Findings**

In the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

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

- i) the disputed domain names are 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 disputed domain names; and
- iii) the disputed domain names were registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

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

The Panel is satisfied that the Complainant owns exclusive trademark rights in BFORBANK which predate the registration of the two disputed domain names.

The Panel finds that the disputed domain names are confusingly similar to the registered BFORBANK trademarks owned by the Complainant.

Indeed, the disputed domain names incorporate the Complainant's trademark BFORBANK in its entirety and the added letters "ww" and "com" and the deletion of the letter "k" do not avoid confusing similarity between the disputed domain names and the Complainant's trademarks.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark under paragraph 4(a)(i) of the Policy.

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

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain names. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has then to demonstrate rights or legitimate interests in the disputed domain names.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names: The Respondent is not commonly known under the disputed domain names, nor owns any registered rights on the disputed domain names or has been authorized by the Complainant to use the prior trademarks in any way.

The Panel does not find any indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or has rights or legitimate interests in any other way in the disputed domain names. On the contrary, the disputed domain names resolve to an inactive website and for one of the two domain name, to a warning web page.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not proved otherwise.

Given these circumstances, the Panel finds that the second element of the Policy has been satisfied.

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

With regards to the registration of the disputed domain names, the Panel finds that at the time of the registration, the Respondent knew or should have been aware of the existence of the Complainant's trademarks and activities. Indeed, given the fact that the Complainant's BFORBANK trademarks are distinctive and with a strong reputation, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks.

This finding is emphasized by the fact that the disputed domain names incorporate the Complainant's trademark BFORBANK in its entirety to which are added the words "ww" or "com" which directly refers to one of the Complainant's previous domain name or the deletion of the letter "k" constitutes typosquatting. For this Panel, it is a clear indication that the Respondent necessarily had the Complainant's trademark in mind when it registered the disputed domain names.

In addition, it appears that the Respondent acquired not only one but two disputed domain names incorporating the Complainant's trademarks.

Therefore, the Panel is convinced that the disputed domain names were registered in bad faith by the Respondent.

As for use of the disputed domain names in bad faith, it has been long established, that passive holding of the disputed domain name may be considered bad faith use in some cases.

In the present case, each disputed domain name directs to an inactive page.

The Panel notes that one of the disputed domain name directs at the time of the decision to site identified a web page that warns Internet users that they may be tricked into doing something dangerous like installing software or revealing [their] personal information as passwords, credit cards number.

The Panel finds that while this is not conclusive evidence of actual illegal activity, it is evidence that supports the unrebutted argument that the Respondent may be using this disputed domain name for fraudulent activity.

As the Panel established that the disputed domain name <ww-bforbancom.com> bears a potential risk of cyberthreat, the use of the disputed domain name for an illegal activity would also be considered abusive registration and use of the disputed domain name under the Policy.

In any event, noting the non active use of the disputed domain names, and their composition, the Panel finds that the passive holding of the disputed domain names does not prevent a finding of bad faith.

In the light of the above, the Panel finds that the disputed domain names have been registered and are being used in bad faith pursuant to 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 names <ww-bforbancom.com> and <ww-bforbankcom.online> be transferred to the Complainant.

*/Elise Dufour/*

**Elise Dufour**

Sole Panelist

Date: September 18, 2023