

## **ADMINISTRATIVE PANEL DECISION**

**FINECOBANK S.p.A. v. Domain Administrator, See PrivacyGuardian.org llc**  
Case No. D2024-1247

### **1. The Parties**

The Complainant is FINECOBANK S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is Domain Administrator, See PrivacyGuardian.org llc, United States of America.

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

The disputed domain names <finecobank.club>, <fineco-bank.info>, <fineco-bank.top>, and <finecobank.top> are registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2024. On March 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 25, 2024, 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 March 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 18, 2024.

The Center appointed Mireille Buydens as the sole panelist in this matter on April 25, 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

Founded in 1999, the Complainant, FINECOBANK S.p.A., is an Italian direct and multichannel bank providing banking, credit, trading, and investment services. It operates in Italy but also in other European countries via a network of financial advisors. With over 1.5 million clients and EUR 7.1 billion in net inflows in 2023, the Complainant is one of leading international FinTech banks.

The Complainant owns several trademarks, including:

- International Trademark Registration No. 760491 for FINECO (wordmark), registered on December 12, 2000, in classes 35, 36, and 42;
- European Union Trademark Registration No. 1332823 for FINECO BANK (wordmark), registered on April 29, 2016, in classes 9, 36, and 38;
- International trademark registration no 133823 for FINECO BANK (wordmark), registered on April 29, 2016, in classes 09, 36, and 38;

The Complainant is also the owner of the domain name <fineco.com>, registered on June 17, 2006, and which resolves to the Complainant's primary web portal for the promotion and provision of the FINECO products and services.

The disputed domain names <finecobank.club>, <finecobank.top>, <finecobank.info>, and <fineco-bank.top> were registered by the Respondent on December 22, 2023.

According to the Complaint, the disputed domain name <finecobank.info> first resolved to a website impersonating Complainant, reproducing Complainant's trademarks, company information, and official contents. The disputed domain name <finecobank.top> also resolved to a website impersonating Complainant, despite not being fully developed. The Complainant explains that Internet users were invited to open an account to avail of the services promoted on both websites. The Respondent identified itself, on both websites, as "FinecoBank S.p.A." and indicated the address of the Complainant's registered offices in Milan, along with further Complainant's details, including its shared capital, VAT number, company registration number and electronic mail. The disputed domain names <finecobank.club> and <finecobank.top> resolved to inactive websites.

When the Complainant became aware of the disputed domain names, it sent a cease-and-desist letter to the Respondent. The Respondent failed to provide any response. The Complainant also sent an abuse report to the network provider, in order to obtain the hosting provider's information for the websites published at <fineco-bank.top> and <finecobank.info>. The Complainant received such information and sent a cease-and-desist letter to the hosting provider, but the letter remained unanswered. The Complainant also sent an abuse report to the Registrar, which confirmed to have suspended the disputed domain names <fineco-bank.top> and <fineco-bank.info>.

At the time of this decision, all disputed domain names resolve to an error or blank page.

#### 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 names.

First, the Complainant contends that it owns rights in the trademarks FINECO and FINECO BANK and that the disputed domain names are confusingly similar to the Trademark. The disputed domain names incorporate the Complainant's trademark FINECO BANK, with the addition of a hyphen in the disputed domain name <fineco-bank.info> and <fineco-bank.top>, which is insufficient to prevent a finding of

confusing similarity. As to the addition of the Top Level Domains (“TLDs”) .club, .top, and .info, the applicable Top Level Domain in a domain name is viewed as a standard registration requirement and is disregarded.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent is not a licensee or an authorized agent of the Complainant. There is no evidence demonstrating that the Respondent might be commonly known by the disputed domain names. There is no evidence of the Respondent’s use or preparations to use the disputed domain names in connection with a bona fide offering of goods or services, nor any evidence of a legitimate non-commercial or fair use of the disputed domain names by the Respondent. Moreover, the disputed domain names <fineco-bank.info> and <fineco-bank.top> originally resolved to websites impersonating the Complainant, with a reference to the Complainant’s information and contact details on the websites, in absence of any disclaimer of non-affiliation with the Complainant. Such willful conduct demonstrates that the Respondent did not intend to use the disputed domain names in connection with any legitimate purpose. On the contrary, it appears from the websites that the Respondent clearly intended to trade off the Complainant’s well-known trademarks and to pass off as the Complainant for fraudulent purposes, as the websites invited Internet users to open an account, which demonstrate that the Respondent, in all likelihood, intended to obtain users’ personal information. Furthermore, all the disputed domain names, being virtually identical to the Complainant’s company name and trademark FINECO BANK, are inherently misleading, carrying a high risk of implied affiliation with the Complainant.

Third, the Complainant asserts that the disputed domain names were registered and are being used in bad faith. Since the trademark FINECO is well known, the Respondent could not have been unaware of its existence when it registered the disputed domain names, which are almost identical to the Complainant’s trademark. Furthermore, Respondent’s actual knowledge of the Complainant and its trademarks is clearly demonstrated by the publication of the Complainant’s trademarks and company information on the websites to which <fineco-bank.info> and <fineco-bank.top> resolved. The Respondent was clearly well aware of the Complainant and its trademarks and registered the disputed domain names with such trademarks in mind, in order to capitalize on the reputation of the Complainant and its well-known trademarks to attract Internet users.

With respect to bad faith use, as mentioned above, the disputed domain names <fineco-bank.info> and <fineco-bank.top> originally resolved to websites impersonating the Complainant, reproducing the Complainant’s trademarks and indicating the Complainant’s contact details in the website footer. The Respondent has knowingly attempted to attract Internet users to its websites for commercial gain, by intentionally creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of its websites and the services promoted therein.

The circumstance that two of the disputed domain names, <finecobank.top> and <finecobank.club>, have not been pointed to active websites, and that, at present, all the disputed domain names are no longer resolving to active websites, does not exclude bad faith. In view of (i) the distinctiveness and reputation of the Complainant’s trademarks, (ii) the failure of the Respondent to reply to the Complainant’s cease-and-desist letters and to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent’s concealing its identity in the public WhoIs records and its provision of false contact information (by providing the contact details of the Complainant) on two of the websites to which the disputed domain names resolved, and (iv) the implausibility of any good faith use to which the disputed domain names – virtually identical to the Complainant’s trademark FINECO BANK and to the Complainant’s domain name <finecobank.com>, the Respondent’s passive holding shall not prevent a finding of bad faith use.

## **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements to succeed in its Complaint:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### 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 entirety of the trademark FINECO BANK is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The TLDs ".club", ".info", ".top" are standard registration requirements and don't prevent the disputed domain names from being identical to the Complainant's trademarks. [WIPO Overview 3.0](#), section 1.11.1.

### 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.

The Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent is commonly known by the disputed domain names, nor is there any evidence of use or demonstrable preparations to use the disputed domain names for a bona fide offering of goods or services. There is no evidence of legitimate noncommercial or fair use of the disputed domain names, either. The fact that the disputed domain names <fineco-bank.info> and <fineco-bank.top> originally resolved to websites impersonating the Complainant, with a reference to the Complainant's information and contact details on the websites, confirms that the Respondent, was not intending to use these disputed domain names in the

framework of a bona fide offering of goods or services. Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the disputed domain names, being virtually identical to the Complainant's company name and trademark FINECO BANK, carry a high risk of implied affiliation and affirm the Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain names and the Complainant's trademarks. [WIPO Overview 3.0](#), section 2.5.1.

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 disputed domain names are virtually identical to the Complainant's well-known trademark FINECO BANK (the only difference being a hyphen between "fineco" and "bank" in the disputed domain names <fineco-bank.info> and <fineco-bank.top>), which predates the registration of the disputed domain names. As a result, the Panel finds that the Respondent was more likely than not aware of the Complainant's trademark at the time of the registration of the disputed domain names ([WIPO Overview 3.0](#) section 3.1.4). Furthermore, the Respondent's actual knowledge of the Complainant and its trademarks is clearly demonstrated by the publication of Complainant's trademarks and company information on the websites to which <fineco-bank.info> and <fineco-bank.top> resolved.

Paragraph 4(b) of the Policy considers that the domain name is used in bad faith when, by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

In the present case, the Panel notes that the disputed domain names, which reproduce the trademark FINECO BANK combined with the TLDs ".club", ".info", and ".top", falsely suggests that Internet users will find a website affiliated with the Complainant. The Respondent has sought to create a misleading impression of association with the Complainant, which is a well-known company in the field of financial services and thereby attracts Internet users and inspires confidence. The Panel concludes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

Panels have held that the use of a domain name for illegal activity constitutes bad faith ([WIPO Overview 3.0](#), section 3.4.) In the present case, the disputed domain names <fineco-bank.info> and <fineco-bank.top> originally resolved to websites impersonating the Complainant, reproducing the Complainant's trademarks, and indicating the Complainant's contact details in the website footer. It appears that the Respondent has attempted to attract Internet users to its websites for commercial gain, by intentionally impersonating the Complainant's website. This is a clear evidence of bad faith registration and use of these disputed domain names by the Respondent.

The disputed domain names <finecobank.club> and <finecobank.top> resolved to inactive websites. At the time of this decision, all disputed domain names resolve to a blank or error page. Panels have found that the non-use of a domain name (including a blank or "error" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. 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 (i) the distinctiveness and reputation of the Complainant's trademark FINECO BANK, (ii) the failure of the Respondent to reply to the Complainant's cease-and-desist letters and to provide any evidence of actual or contemplated good-faith use, (iii) the Respondent's concealing its identity in the public Whois records and its provision of false contact information (by providing the contact details of the Complainant) on two of the websites to which the disputed domain names resolved, and (iv) the implausibility of any good faith use to which the disputed domain names – virtually identical to the Complainant's trademark FINECO BANK and to the Complainant's domain name <finecobank.com>. The Panel finds that in the circumstances of this case the passive holding of the disputed domain names 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 names <finecobank.club>, <fineco-bank.info>, <fineco-bank.top>, and <finecobank.top> be transferred to the Complainant.

*/Mireille Buydens/*

**Mireille Buydens**

Sole Panelist

Date: May 8, 2024