

## **ADMINISTRATIVE PANEL DECISION**

Caja Laboral Popular Coop. de Crédito v. Andoni cuesta illera  
Case No. D2022-4794

### **1. The Parties**

The Complainant is Caja Laboral Popular Coop. de Crédito, Spain, represented by Neudomains Digital, Spain.

The Respondent is Andoni cuesta illera, Spain.

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

The disputed domain name <cajalaboral.shop> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 15, 2022, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. After a Complainant’s communication, the Center sent a possible settlement communication to the parties on February 9, 2023. The Complainant sent an email to the Center on February 20, 2023, in which requested the continuation of the proceedings without filing an amended Complaint.

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 February 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on March 31, 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 Spanish credit cooperative that operates mainly in the North of Spain, particularly in the Basque and Navarra area. It is the result of the merger of two financial institutions “Caja Laboral” (also known as “Euskadiko Kutxa”) and “Ipar Kutxa”, which was officially announced and effective in 2013. Since 2013, the Complainant operates under the trademarks CAJA LABORAL, CAJA LABORAL POPULAR, COOP. DE CRÉDITO, and CAJA LABORAL EUSKADIKO KUTXA and it has more than 1 million clients.

The Complainant holds trademark registrations for its brands, including:

- European Union Trade Mark Registration No. 002197382, CAJA LABORAL, word, registered on May 8, 2003, in classes 35, 36, and 38;
- Spanish Trademark Registration No. M4155105, CAJA LABORAL POPULAR, COOP. DE CRÉDITO, word, registered on September 14, 2022, in classes 9, 16, 35, 36, 38, 41, 42, and 45; and
- Spanish Trademark Registration No. 4155102, CAJA LABORAL EUSKADIKO KUTXA, word, registered on September 20, 2022, in classes 9, 16, 35, 36, 38, 41, 42, and 45, (collectively the “CAJA LABORAL trademarks”).

The Complainant further owns various domain names corresponding to its trademarks, including <cajalaboral.com> (registered on February 19, 1997), <cajalaboral.org> (registered on March 19, 2001), <cajalaboral.es> (registered on January 9, 1998), and <laboralkutxa.com> (registered on September 24, 2012), which resolves to its corporate website. At the Complainant’s corporate website, “www.laboralkutxa.com”, the Complainant promotes and offers its financial and banking services, including online banking services for its clients.

The disputed domain name was registered on December 3, 2022, and it resolves to a landing page in Spanish language of One.com, which indicates the site is under construction, and promotes the One.com services.

#### **5. Parties’ Contentions**

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

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is almost identical to the CAJA LABORAL mark varying only in the generic Top-Level Domain (“gTLD”) “.shop”, which is incapable of diminishing the confusing similarity and do not enter in the comparative process according to numerous UDRP decisions.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name leads to confusion and association with the Complainant. The Respondent has not been known in the market under the name “Caja Laboral”, and has no intellectual property rights on these terms; The Respondent has no relationship with the Complainant and has never been authorized to use the Complainant’s reputed CAJA LABORAL mark.

The disputed domain name was registered and is being used in bad faith. Due to the reputation of the Complainant and its trademarks in the Spanish market, the Respondent knew or should have known about these trademarks when he registered the disputed domain name. The Complainant's trademarks are recorded at the Trademark Clearinghouse ("TMCH"), so the Respondent received a notice at the time of registration of the disputed domain name advising him that the disputed domain name coincided with the CAJA LABORAL mark. The Respondent has registered the disputed domain name to take advantage of the notoriety of CAJA LABORAL mark, to attract visitors to his site. The disputed domain name incorporates the Complainant's trademark in its entirety, and is thus suited to divert or mislead potential Internet users seeking the Complainant's website. Other factors that indicate the Respondent's bad faith are the use of a privacy service and the non-use of the disputed domain name, which displays an under construction page.

The Complainant has cited previous decisions under the Policy as well as various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

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

The Complainant indisputably has rights in its CAJA LABORAL trademarks both by virtue of its trademark registrations and as a result of its continuous use in the market of these trademarks.

The disputed domain name incorporates the CAJA LABORAL mark in its entirety with no additional element, and the gTLD ".shop" is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity under the Policy. See sections 1.7, and 1.11.1, [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trademark CAJA LABORAL, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

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

The Complainant's assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant's *prima facie* case. See section 2.1, [WIPO Overview 3.0](#).

However, the Respondent has not replied to the Complainant's contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in respect of the disputed domain name, not being authorized to use the Complainant's trademarks, and not existing any evidence that suggests that the Respondent may be commonly known by the disputed domain name. In this respect, the Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has corroborated through a search at the public Global Brand Database that the Respondent does not own any trademark registration including or consisting of the terms "caja laboral".

The Panel further notes that the word "caja" and the word "laboral" are included in the dictionary in the Spanish language, "caja" indicating a box or a case, and "laboral" indicating labor or work-related. However, panels have consistently recognized that merely registering a domain name comprised of a dictionary word or phrase does not by itself automatically confer rights or legitimate interests on the respondent. In order to find rights or legitimate interests in a domain name based on its dictionary meaning, the domain name should be genuinely used, or at least demonstrably intended for such use, in connection with the relied-upon dictionary meaning and not to trade off third-party trademark rights. See section 2.10, [WIPO Overview 3.0](#).

In this respect, the Panel notes that the disputed domain name resolves to a landing page that simply informs about the services of the hosting provider and the appearing under construction status of the Respondent's website, and the Respondent has not replied to the Complaint. Therefore, the Respondent has not provided any explanation related to any intention to use the disputed domain name in connection to its relied-upon dictionary meaning, or to any other circumstance that may be considered as rights or legitimate interests in the disputed domain name.

Furthermore, it is to be noted that, under the Policy, a core factor to consider fair the use of a domain name is that it does not falsely suggests any type of affiliation with the trademark owner, and, generally speaking, a domain name which is identical to a complainant's trademark carries a high risk of implied affiliation. See section 2.5, [WIPO Overview 3.0](#).

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant's *prima facie* case, and all the cumulative facts and circumstances indicate the Respondent lacks any rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

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

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the continuous and extensive use of the CAJA LABORAL trademarks, and particularly the CAJA LABORAL mark, over more than 10 years (and even before the merge that led to the Complainant, by the former "Caja Laboral" (also known as "Euskadiko Kutxa")).

The Panel further notes the extensive presence over the Internet of the CAJA LABORAL trademarks, and particularly the CAJA LABORAL mark, as well as their notorious character in the Spanish banking and financial industry. Any search over the Internet for the terms "caja laboral" reveals the Complainant and its trademarks, and well as its corporate website a "www.laboralkutxa.com".

Additionally, the Panel notes that the Basque word "kutxa" can be translated into Spanish as "caja". Therefore, the disputed domain name shares obvious similarities with the Complainant's domain name <laboralkutxa.com>, currently used to resolve to its corporate website, for Basque speaking Internet users.

The Panel, under its general powers, has further corroborated, through a search over the public Internet archive WayBackMachine, that the former Complainant's company "Caja Laboral" used the domain name <cajalaboral.com> for its corporate website, at least since 2002 until 2012, and, after the merge that led to the Complainant, this domain name was redirected to the Complainant's current website at "www.laboralkutxa.com", at least since 2013 until November 2022.

The Panel further notes that, according to the Registrar verification, the Respondent is located in Vizcaya, which is part of the Basque area, main territory where the Complainant operates and its trademarks are well known. The Panel, under its general powers, has corroborated through a consult to the Complainant's corporate website at "www.laboralkutxa.com" that the Complainant's branches in this area of Spain are numerous.

It is further remarkable that the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered targeting the CAJA LABORAL mark in bad faith.

The Panel finds that the evidence and circumstances of this case show that, in the balance of probabilities, the disputed domain name was registered and is being used with the intention of obtaining a free ride on the Complainant's established reputation in Spain and, particularly, in the Basque and Navarra area, to increase the traffic of a parked page linked to the disputed domain name by misleading Internet users seeking for the Complainant and its financial services, which constitutes bad faith under the Policy.

The Panel further finds that the disputed domain name may potentially represent a serious threat to be used as part of any type of phishing scheme or other scam, particularly, taking into account that: (i) the banking and financial services industries are sectors where these frauds are common; (ii) the disputed domain name is identical to the CAJA LABORAL mark; (iii) the disputed domain name is similar to the Complainant's corporate website domain name (<laboralkutxa.com>) for Basque speaking Internet users that understand the meaning of the word "kutxa"; and (iv) the disputed domain name is identical to the domain name <cajalaboral.com> (used for more than 10 years, 2002-2012, to resolve to the Complainant's corporate website, and, afterwards, to redirect to the Complainant's corporate website at "www.laboralkutxa.com").

All of the above-mentioned circumstances leads the Panel to conclude that the disputed domain name was registered and is being used in bad faith. Accordingly, the Panel considers that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under 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 <cajalaboral.shop> be transferred to the Complainant.

*/Reyes Campello Estebanz/*

**Reyes Campello Estebanz**

Sole Panelist

Date: April 12, 2023