

ADMINISTRATIVE PANEL DECISION

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. EMILE Henonin
Case No. D2023-0261

1. The Parties

Complainant is Banque et Caisse D'epargne De L'etat, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

Respondent is EMILE Henonin, France.

2. The Domain Name and Registrar

The disputed domain name <wwwbcee-snet-lu.com> is 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 January 20, 2023. On January 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2023, 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 Complainant on January 24, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 27, 2023.

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 Respondent of the Complaint, and the proceedings commenced on February 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2023. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent's default on March 8, 2023.

The Center appointed Ingrida Kariņa-Bērziņa, as the sole panelist in this matter on March 14, 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

Complainant is a company established in 1856 by the government of Luxembourg offering banking, insurance and financial services under the mark BCEE (which is the acronym of Banque et Caisse d'Epargne de l'Etat). Complainant operates an online banking service under the mark S-NET at the domain name <bcee.snet.lu>.

Complainant is the proprietor of numerous trademark registrations, including the following:

- European Union Trade mark No. 009110537 for BCEE (word mark), registered on November 2, 2010, for goods and services in classes 9,16, 25, 35, 36, 38, 39, 41, 42, 43, 45;
- Benelux Trademark No. 936196 for S-NET (word mark), registered on August 1, 1999, for services in class 36;
- European Union Trade mark No. 009110644 S-NET (word mark), registered on July 1, 2012, for services in classes 35, 36, 38 and 41.

The disputed domain name was registered on October 28, 2022. It redirects to an online bookstore operated by a party that appears to be unrelated to Complainant.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that the disputed domain name reproduces its BCEE and S-NET marks in their entirety, followed by the letters "lu," which is a commonly used abbreviation for Luxembourg, where Complainant is based. The signs BCEE and S-NET are particularly distinctive for the covered goods and services and Complainant's registrations are visible in a top position when a preliminary trademark search is made.

Under the second element, Complainant states that Respondent is not affiliated with Complainant in any way nor has he been authorized by Complainant to use or register its trademarks. Respondent has no prior rights or legitimate interests in the disputed domain name or the BCEE or S-NET marks. Respondent cannot reasonably pretend it was intending to develop legitimate activity through a disputed domain name that combines two of Complainant's trademarks.

Under the third element, Complainant states that it is implausible that Respondent was unaware of Complainant's trademark rights when Respondent registered the disputed domain name. The marks BCEE and S-NET can easily be found by the performance of a simple Google search that demonstrates that all the first results relate to Complainant's goods and services. The term "bcee" is generally known by the public in Luxembourg as being the acronym of the Luxembourgish Savings Bank being "Banque et Caisse d'Epargne de l'Etat, Luxembourg," completely owned by the government of Luxembourg and operating since 1856. The term "s-net" refers to the banking app operated by Complainant. Both these marks are well-known in the European Union. The fact that both of Complainant's marks have been combined in the disputed domain name cannot be a coincidence. The disputed domain name resolves to the website of an online bookstore. It is more likely than not that the disputed domain name is being used for phishing purposes. It is likely that the disputed domain name has been registered to prevent Complainant from registering it, or to try to sell it.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the BCEE and S-NET marks through registrations in the European Union and Benelux. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In comparing Complainant's marks with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to Complainant's BCEE and S-NET marks, as it reflects both of these marks, preceded by the letters "www" and incorporating hyphens and the letters "lu." It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the BCEE or S-NET marks. The disputed domain name reflects Complainant's marks together with the letters "www" and "lu, a common abbreviation for Luxembourg, where Complainant is based. Such a composition may suggesting sponsorship or endorsement by the trademark owner and cannot confer rights or legitimate interests. See, for example, [WIPO Overview 3.0](#), section 2.5.1. Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not proved rights or legitimate interests. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent's rights therein. The disputed domain name redirects to a third-party website unrelated to Complainant. Beyond this redirection, Complainant does not bring forth specific evidence of other fraudulent acts by Respondent. Noting the composition of the disputed domain name and the lack of any plausible explanation for this redirection, the Panel finds that the circumstances indicate that such redirection has been created with the intention of misleading Internet users. See [WIPO Overview 3.0](#), sections 2.5.2 and 2.13.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its BCEE and S-NET marks predate the registration of the disputed domain name by more than a decade. The disputed domain name reflects Complainant's marks in their entirety, together with hyphens and the letters "www" and "lu," which clearly references Luxembourg, leaving no doubt that the disputed domain name is directed at Complainant. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the redirection to a third-party website establishes bad faith insofar as Respondent retains control over the redirection, thereby creating a real or implied ongoing threat to Complainant. See [WIPO Overview 3.0](#), section 3.1.4. See also *Conforama France v. Benjamin Kouassi*, WIPO Case No. [D2021-1166](#), *Ann Summers Limited v. Domains By Proxy, LLC / Minchun Chen*, WIPO Case No. [D2018-0625](#).

Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name. Noting the composition of the disputed domain name, the connection of the BCEE and S-NET marks to Complainant and the similarity of the disputed domain name to the <bcee.snet.lu> domain name used by Complainant for its online banking services, the Panel finds that no good-faith use of the disputed domain name is plausible under these circumstances.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <wwwbcee-snet-lu.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: March 27, 2023