

ADMINISTRATIVE PANEL DECISION

Banque Palatine v. Alex McQueen, HN LTD
Case No. D2022-3190

1. The Parties

The Complainant is Banque Palatine, France, represented by DBK Law Firm, France.

The Respondent is Alex McQueen, HN LTD, Canada.

2. The Domain Name and Registrar

The disputed domain name <epalatine-fr.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2022. On August 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 30, 2022, 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 August 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 21, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on September 28, 2022. 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 French bank founded in 1780, specialised in small and medium-sized companies and in asset management. The Complainant trades under its BANQUE PALATINE and PALATINE marks, which have been recognised as enjoying a reputation and goodwill by prior UDRP panels. The Complainant's main website is located at "www.palatine.fr".

The Complainant owns many trade mark registrations for its BANQUE PALATINE and PALATINE marks in numerous jurisdictions, including the European Union Trade Mark Registration no. 004353223 PALATINE registered on July 31, 2006, in classes 9, 16, 35, 36, 38, 41 and 42.

The Domain Name was registered on August 24, 2022, and does not resolve to any website. The Complainant's evidence establishes that the Domain Name has been flagged by at least one browser as malicious for phishing.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its BANQUE PALATINE and PALATINE marks, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been flagged for phishing, has taken advantage of the repute of the Complainant's mark for that purpose and stands to be transferred to the Complainant under the doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered PALATINE mark is wholly contained within the Domain Name. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other elements (the letter "e" in the beginning, a hyphen and the term "fr", in this case) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its PALATINE mark was registered and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Given what is said below in relation to bad faith, it is clear that the Domain Name was intended for and has been likely used for phishing. UDRP Panels have categorically held that the use of a domain name for illegal activity (e.g. phishing as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Panel has independently established that at least 10 reputable, independent security vendors have flagged the Domain Name for phishing. The Panel has also independently established that the Respondent is listed as the registrant for at least 32 other domain names, all registered in August or September 2022 (like the Domain Name), many of which are obvious cases of typosquatting or impersonation taking advantage of well-known brands. One such example is <mlcsoftonline.com>. Another is <onlinebanking-hsbcbusiness-login.com>. Both of those domain names have also been flagged by reputable, independent security vendors for phishing. The Respondent is clearly a serial cybersquatter and this case is merely a continuation of the Respondent's *modus operandi*.

The Panel has independently established that the Complainant offers various digital banking services under the names "ePalatine Suite", "ePalatine Entreprises" and "ePalatine Trade". The Complainant offers some of these services from the domain name <epalatine.fr>, which the Complainant owns. Clearly the "epalatine" term is widely used by the Complainant, and the Respondent's intention must have been to impersonate the Complainant's "epalatine" services – the Domain Name being highly similar to the Complainant's <epalatine.fr> domain name – probably for the purpose of phishing for user credentials. This behaviour is in line with the Respondent's apparent intentions for the domain name <onlinebanking-hsbcbusiness-login.com> mentioned above, which also appears to target a well-known bank's online banking service.

The fact that, at the time of lodging the Complaint and drafting of this Decision, the Domain Name did not resolve to any website does not prevent a finding of bad faith under the doctrine of passive holding. For the reasons identified above, apart from identity concealing, all the factors that panels typically consider under that doctrine favour the Complainant ([WIPO Overview 3.0](#) at section 3.3).

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied 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 Domain Name, <epalatine-fr.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: October 6, 2022