

ADMINISTRATIVE PANEL DECISION

BPCE v. Tolga karakulah, ? SHOP STREAM ?

Case No. D2023-5371

1. The Parties

The Complainant is BPCE, France, represented by DBK Law Firm, France.

The Respondent is Tolga karakulah, ? SHOP STREAM ?, United States of America.

2. The Domain Name and Registrar

The disputed domain name <caisse-epargne-connexion.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 27, 2023. On December 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Contact Privacy Inc. Customer 0168877363) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 29, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 29, 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 the Respondent of the Complaint, and the proceedings commenced on January 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on February 7, 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

The Complainant is the holding company of one of the largest banking groups in France, with two major retail banking networks, “Banque Populaire” and “Caisse d’Epargne”, and is operating a full range of banking, financing and insurance activities.

The Complainant owns rights in several CAISSE D’EPARGNE trademarks for financial services, including, inter alia, the logo marks French trademark registration No. 1658134, registered on September 27, 1991 and the European Union Trademark registration No. 000637504, registered on April 8, 1999 and the French registration for the word mark LA CAISSE D’EPARGNE No. 3155888, registered on August 30, 2002.

In addition, the Complainant owns and operates the <caisse-epargne.com> domain name, registered in 1998 and the <caisse-epargne.fr> domain name, registered in 2009, which enable customers to access their bank accounts and conduct online transactions.

The Domain Name was registered in 2023, and does not resolve to an active website, but the Respondent activated Mail Exchange (“MX servers”) for the Domain Name.

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 Domain Name.

Notably, the Complainant contends that the Domain Name registered in 2023 is confusingly similar to the Complainant’s well-known trademarks as they are recognizable in the Domain Name, with only hyphens, the word “connexion” (the French word for connection) and the generic TopLevel Domain (“gTLD”) “.com” (which is a standard feature of a domain name) added. None of these additional elements prevents confusing similarity between the Complainant’s trademark and the Domain Name. Other UDRP decisions have confirmed the Complainant’s rights.

The Respondent has not been authorized by the Complainant and has no right to use the Domain Name.

The Domain Name is calculated to deceive. Whilst the Domain Name currently does not point to an active site, the Respondent activated MX servers, likely for phishing purposes, which cannot be a bona fide offering of goods or services or a legitimate noncommercial or fair use. The Respondent has registered the Domain Name in opportunistic bad faith to impersonate the Complainant for likely phishing purposes.

The Respondent used a privacy service and did not respond to a cease-and-desist letter from the Complainant also indicating bad faith.

Once the Complainant’s Whols details were revealed it became apparent that the Respondent had used a false address to register the Domain Name also demonstrating bad faith.

B. Respondent

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

6. Discussion and Findings

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 number of relevant trademarks/service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Complainant's marks are recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to them for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here "connexion" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Nor does the addition of punctuation such as hyphens.

The gTLD ".com" is a functional element of a domain name and does not prevent confusing similarity between the Complainant's mark and the Domain Name being typically disregarded for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Complainant points out that information of Internet users in the financial field is particularly sensitive. The Respondent has not explained why it has registered a Domain Name which is confusingly similar to both the Complainant's marks and the domain names used by the Complainant for interaction with customers and has set up the Domain Name for potential email exchanges use. The Domain Name resolves to an inactive website and such use does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use.

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 Respondent's registration of an inherently deceptive Domain Name for potential email use will disrupt the Complainant's business.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that not using a Domain Name for an active web site 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 Domain Name for an active web site 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 the reputation of the Complainant's trademark which is well known, the deceptive composition of the Domain Name, the failure of the Respondent to respond to the Complainant's allegations, and the use of incomplete or inaccurate information in the Whois record of the Domain Name and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes 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 Domain Name <caisse-epargne-connexion.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: February 21, 2024