

ADMINISTRATIVE PANEL DECISION

MONABANQ SA v. Yo Cades

Case No. D2023-5404

1. The Parties

The Complainant is MONABANQ SA, France, represented by MEYER & Partenaires, France.

The Respondent is Yo Cades, Denmark.

2. The Domain Name and Registrar

The disputed domain name <monabanca.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 2, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 5, 2024, 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 amendment to the Complaint on January 5, 2024.

The Center verified that the Complaint together with the amendment to 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 January 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 6, 2024.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on February 13, 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 a French banking company - operating since 2006 - subsidiary of the leading bank group CREDIT MUTUEL CIC.

The Complainant has its headquarters at Villeneuve d'Ascq (France) and operates a 100 per cent online banking business through its website "www.monabanq.com" and through a mobile application using the name "Monabanq".

In fact, the Complainant has submitted evidence demonstrating its recognition as one of the best online banks in France by the press.

The Complainant is the owner of the trademark MONABANQ in many jurisdictions, including France trademark No. 3419108 for MONABANQ, registered on March 27, 2006, for cl. 9, 16, 35, 36, and 38; European Union Intellectual Property Office (EUIPO) trade mark No. 018064036 for MONABANQ, registered on November 6, 2019, in cl. 9, 16, 35, 36, and 38; and International Reg. No. 943266 for MONABANQ.COM, registered on October 9, 2007, in cl. 9, 16, 35, 36, and 38.

Likewise, the Complainant claims to own an important domain names portfolio, including, among others, its primary domain name <monabanq.com>, registered since March 23rd, 2006.

Lastly, the Complainant has provided evidence showing that the disputed domain name was registered on December 1, 2023, and initially resolved to a website offering banking services. However, the content was then modified and currently the disputed domain name leads to an inactive website informing that the disputed domain name has been suspended.

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 name.

The Complainant states that the disputed domain name is confusingly similar to its trademark MONABANQ, and its domain name associated.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, nor is the Respondent related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark MONABANQ or apply for registration of the disputed domain name.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant's website.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was 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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The typosquatting practice of replacing the letter "q" by letters "ca", does not prevent this Panel to conclude that the disputed domain name is confusingly similar to the Complainant's trademark under [WIPO Overview 3.0](#), section 1.9.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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.

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the MONABANQ trademark nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Even more, it does not seem that the Respondent made nor is making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent's first use of the disputed domain name appeared to be merely intended to benefit from the Complainant's reputation by confusing Internet users and

leading them to believe that the site to which the disputed domain name relates was associated to the Complainant. Hence, as established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry.” Currently, the Panel has confirmed that disputed domain name resolves to an inactive website.

The Complainant submitted sufficient evidence to demonstrate that the Respondent initially used the disputed domain name to pretend to be an official banking company. This clearly underscores the Respondent’s intention to mislead Internet users looking for the Complainant’s services and to commit illegal activities, such as impersonation, phishing, and other types of fraud. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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 such connection, the Complainant has submitted evidence to support that the trademark MONABANQ is widely known and was registered and used many years before the Respondent registered the disputed domain name. When registering the disputed domain name, the Respondent has targeted the Complainant’s trademark MONABANQ to generate confusion among Internet users and benefit from the Complainant’s reputation under paragraph 4(b)(iv) of the Policy.

Likewise, based on the evidence provided by the Complainant, the disputed domain name initially resolved to a commercial website providing banking services which was intended to attract and mislead Internet users when searching for the Complainant’s website and to redirect them to a website from which the Respondent most probably derives commercial revenue by creating a likelihood of confusion with the Complainant’s trademark. Clearly, the Respondent should have known the existence of the Complainant when registering the disputed domain name.

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 name <monabanca.com> be transferred to the Complainant.

/Gustavo Patricio Giay/

Gustavo Patricio Giay

Sole Panelist

Date: February 27, 2024