

ADMINISTRATIVE PANEL DECISION

BankPlus v. Domain Privacy, Domain Name Privacy Inc.
Case No. D2024-1449

1. The Parties

The Complainant is BankPlus, United States of America (“United States”), represented by Adams and Reese LLP, United States.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

2. The Domain Name and Registrar

The disputed domain name <bankplusplus.net> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 6, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 amended Complaint on April 24, 2024.

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 April 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 30, 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 regional bank in the United States and has been active for over 100 years. It has over USD 7,5 billion in total assets and has thousands of employees in over 80 financial centers. The Complainant operates its principal website at the domain name <bankplus.net>.

The Complainant is the owner of the United States trademark BANKPLUS with registration No. 3022556, registered on December 6, 2005, for services in International Class 36 (the "BANKPLUS trademark").

The disputed domain name was registered on March 29, 2024. It resolves to a parking webpage containing pay-per-click links to banking-related services, such as "Three in One Credit Report and Score", "Debit Consolidation Loan Company", and "Bank Loans". The disputed domain name is also offered for sale for USD 2,888.

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 BANKPLUS trademark, because it differs from the trademark only by the inclusion of an additional letter "p", which makes it an obvious misspelling of the trademark and seeks to take advantage of the fact that a proportion of Internet users would fail to notice the misspelling. The Complainant adds that the disputed domain name is an obvious misspelling also of the Complainant's domain name <bankplus.net>.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has never been authorized by the Complainant to register or use the BANKPLUS trademark or to apply for or use any domain name incorporating it, and is not commonly known as "BANKPPLUS". According to the Complainant, at the time of registration of the disputed domain name the BANKPLUS trademark was well known due to its extensive use and promotion by the Complainant for 30 years.

The Complainant states that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or in a legitimate noncommercial or fair manner, because the disputed domain name resolves to a parking website showing pay-per-click links to websites purportedly offering banking-related services. According to the Complainant, the Respondent is also using the disputed domain name to distribute malware, because the associated website prompts visitors to install a Chrome browser extension. The Complainant further submits that mail exchange ("MX") settings have been enabled for the disputed domain name, which according to it indicates that the Respondent has set up the disputed domain name to be able to send fraudulent emails.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent could not have been unaware of the Complainant at the time of registration of the disputed domain name. The Complainant maintains that the Respondent is using the disputed domain name in bad faith to divert Internet users to a commercial parking webpage with links related to the services offered by the Complainant, which generates unjustified revenues for each click-through of the sponsored links, thus illegitimately capitalizing on the Complainant's name and reputation. The Complainant adds that

the disputed domain name has active MX records and the Respondent is likely using it to send fraudulent emails in furtherance of potential illegal activities, such as phishing scams.

Finally, the Complainant points out that the Respondent offers to sell the disputed domain name for USD 2,888, which price far exceeds the Respondent's out-of-pocket costs directly related to the disputed domain name.

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 the BANKPLUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the BANKPLUS trademark is easily recognizable within the disputed domain name, which is an obvious misspelling of the same trademark. Accordingly, the disputed domain name is confusingly similar to the BANKPLUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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 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 disputed domain name represents an obvious misspelling of the BANKPLUS trademark and has been used for a parking webpage containing pay-per-click links for banking-related services which are competitive to or complementary to the services offered by the Complainant. In the absence of any arguments and evidence to the contrary, this supports a conclusion that it is more likely than not that the Respondent targets

the Complainant's BANKPLUS trademark in an attempt to confuse Internet users that the website at the disputed domain name and the commercial links placed on it are somehow related to or endorsed by the Complainant for commercial gain. Such conduct cannot give rise to rights or legitimate interests of the Respondent in the disputed domain name.

The Panel therefore finds that 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.

As discussed in section 6.B above, the evidence supports a conclusion that it is more likely than not that, by registering and using the disputed domain name, which is a typosquatted version of the Complainant's BANKPLUS trademark, the Respondent intentionally attempts to attract, for commercial gain, Internet users to the disputed domain name and the associated website by creating a likelihood of confusion with the Complainant's trademark as to the affiliation with or endorsement by the Complainant of the associated website and of the commercial links to third party banking-related services placed on it. In addition, the disputed domain name has MX records activated, and recipients of emails from such account may well be confused that they originate from the Complainant. All this supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy.

In addition, the evidence shows that the Respondent currently offers the disputed domain name for sale for the price of USD 2,888. In the absence of any evidence to the contrary, this amount appears to be far in excess of the reasonable out-of-pocket costs directly related to the disputed domain name, which supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(i) of 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 disputed domain name <bankplus.net> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: June 13, 2024