

ADMINISTRATIVE PANEL DECISION

**BPCE v. Philippon Dimitri, patrimoinebpce and PHILIPPON Dimitri -
Bpce, patrimoine-bpce
Case No. D2024-2319**

1. The Parties

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

The Respondents are Philippon Dimitri, patrimoinebpce and PHILIPPON Dimitri - Bpce, patrimoine-bpce, United States of America.

2. The Domain Names and Registrar

The disputed domain names <patrimoine-bpce.com> and <patrimoinebpce.com> are registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 6, 2024. On June 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 13, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on June 14, 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 June 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 24, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on July 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 BPCE, the second-largest banking group in France. BPCE provides a full spectrum of banking, financing, and insurance services through its primary cooperative networks, Banque Populaire and Caisse d'Epargne, along with various subsidiaries. Operating in over 40 countries, the Complainant employs 105,000 people and serves 36 million customers.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- European Union trademark registration No. 8375875, registered on January 12, 2010, for the figurative mark BPCE, in class 36; and
- European Union trademark registration No. 8375842, registered on January 12, 2010, for the word mark BPCE, in class 36.

The Complainant is also the owner of the domain names, directly and also via its subsidiary GCE TECHNOLOGIES, such as <bpce.fr> registered in 2008 and <groupebpce.fr>; or <groupebpce.com> registered in 2009 and corresponding to an active website, the institutional portal of BPCE.

The aforementioned trademarks and domain names were registered before the disputed domain names, <patrimoine-bpce.com> and <patrimoinebpce.com>, which were registered on April 19, 2024, and April 10, 2024, respectively. As of the date of this decision, the disputed domain names resolve to inactive webpages. However, the Complainant has provided evidence that the disputed domain names were previously used to send emails impersonating an employee of the Complainant with the intent to commit financial fraud.

The Respondent, according to the disclosed Whois information for the disputed domain names, is located in the United States of America.

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 names.

Notably, the Complainant asserts that the BPCE trademark is well-known.

According to the Complainant, the disputed domain names are confusingly similar to the Complainant's trademark, BPCE, as they incorporate the entire trademark. The addition of the descriptive term "patrimoine" (meaning "asset" in French) directly referring to the Complainant's financial services, does not alter the overall impression that the disputed domain names are associated with the Complainant's trademark or prevent confusing similarity. In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part

of the disputed domain names, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names since (1) the Complainant has never licensed, contracted, or otherwise permitted the Respondent to apply to register the disputed domain names; (2) the Respondent has no trademarks or trade names corresponding to the Complainant's trademark and disputed domain names; and (3) the Respondent is using the disputed domain names to send the fraudulent emails to confuse or deceive consumers for phishing purposes.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain names in bad faith for the following reasons: (1) the Complainant's trademarks significantly predate the registration of the disputed domain names, and the Respondent knew about the Complainant's trademark; (2) the Complainant's BPCE trademark is well-known; (3) the prior use of the domain names in connection with email phishing schemes is considered illegal activity, and such use cannot be considered a bona fide offering of goods or services; and (4) the currently inactive status of the disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding.

The Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

I. Preliminary Issue: Consolidation of Multiple Underlying Respondents

The amended Complaint was filed against the domain name registrants who share the same name, "Philippon Dimitri", but with different postal addresses (one located in New York for "patrimoinebpce.com" and the other in California for "patrimoine-bpce.com"). The Complainant alleges that the domain name registrants are the same entity, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names in this proceeding are all owned and controlled by the same party or the same operating group using aliases.

First, all the disputed domain names follow similar naming conventions, incorporating the term "patrimoine" along with the BPCE trademark. Second, the disputed domain names have been used to send fraudulent emails with the same content, impersonating the Complainant and using the name of the Complainant's employee. These emails display the BPCE trademark and are part of the same fraudulent financial scheme.

Third, all the disputed domain names were registered through the same Registrar, within a 9-day interval, between April 10, 2024, and April 19, 2024.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

II. Substantive Issues

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent’s default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent’s failure to submit a response as it considers appropriate.

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 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 entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “patrimoine”, 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 disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the BPCE trademark or to seek registration of any domain name incorporating the trademark. According to the Complainant, the Respondent has no trademarks or trade names corresponding to the disputed domain names.

The Panel notes that according to Whois details, the Respondent's organization name is "patrimoinebpce" for <patrimoinebpce.com> and "patrimoine-bpce" for <patrimoine-bpce.com>.

According to Section 2.3 of [WIPO Overview 3.0](#), "Insofar as a respondent's being commonly known by a domain name would give rise to a legitimate interest under the Policy, panels will carefully consider whether a respondent's claim to be commonly known by the domain name – independent of the domain name – is legitimate. Mere assertions that a respondent is commonly known by the domain name will not suffice; respondents are expected to produce concrete, credible evidence."

The Panel concludes that the Respondent, refraining from filing a Response, has failed to provide the substantial proof required to prove he was commonly known by the disputed domain names. [WIPO Overview 3.0](#), section 2.3.

Given the circumstances of this case, particularly the use of the disputed domain names for sending fraudulent emails, the Panel believes that the Respondent provided a false name and used the Complainant's name, BPCE, to purportedly establish a legitimate interest in creating the disputed domain names.

Based on the available record, the Panel finds that the Respondent is obviously not making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue, [WIPO Overview 3.0](#), section 2.4.

Indeed, all disputed domain names have been used to send fraudulent emails, reproducing the Complainant's BPCE trademark and logo and impersonating the Complainant, as part of a fraudulent scheme to deceive potential clients of the Complainant into investing, under the false representation of interacting with the Complainant's employee. UDRP panels have held that the use of a domain name for illegal activity, such as impersonation/passing off or other types of fraud such as in the present case, as part of a fraudulent financial scheme, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the composition of the disputed domain names is such that they carry a risk of implied affiliation with the Complainant and/or endorsement by the trademark owner, which cannot be considered as fair use. [WIPO Overview 3.0](#), section 2.5.1.

Finally, the fact that the disputed domain names currently resolve to an inactive page does not alter the aforementioned conclusions.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain names and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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 Complainant's well known BPCE trademark substantially predates the Respondent's registration of the disputed domain names. Therefore, the Respondent knew or should have known of the Complainant's trademark at the time of registering the disputed domain names. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain names that are confusingly similar to the Complainant's widely known trademark by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's awareness of the Complainant and its trademark can be easily inferred from the use of the disputed domain names. By employing the disputed domain names to send fraudulent emails featuring the Complainant's BPCE trademark and logo and to impersonate the Complainant in fraudulent financial schemes, it is evident that the Respondent was aware of the business activities associated with the Complainant's BPCE trademark. Panels have held that the use of a domain name for illegal activity, here, fraudulent financial scheme, and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 disputed domain names <patrimoine-bpce.com> and <patrimoinebpce.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: August 13, 2024