

ADMINISTRATIVE PANEL DECISION

BPCE v. Name Redacted
Case No. D2024-2408

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <solutionprivleepce.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 (Contact Privacy Inc. Customer 0171327870) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 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 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”).

¹Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 11, 2024.


The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on July 17, 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, BPCE, is one of the largest banking groups in France, acting as the central institution responsible for the two banking networks, Banques Populaires and Caisses d'Epargne.

The Complainant operates a full range of banking, financial, and insurance activities. It employs 105,000 people and serves a total of 36 million customers. BPCE is present in more than 40 countries through its various subsidiaries.

The Complainant is the owner of numerous trademarks including the following ones:

- European Union trademarks  BPCE , registration No. 008375875; and BPCE, registration No. 008375842, both registered on January 12, 2010;

- French trademark  BPCE , registration No. 3653852, registered on May 29, 2009; and

- International trademark  BPCE , registration No. 1033662, registered on December 15, 2009.

The trademark registrations will hereafter together referred to in singular as the "Trademark".

The Complainant and its subsidiary GCE Technologies have also registered domain names reflecting the Trademark, such as <bpce.fr>, registered in 2008, and <groupebpce.com>, registered in 2009.

The disputed domain name was registered on May 30, 2024, and does resolve to the website of Zoho, according to the Complainant, reseller of the disputed domain name.

The Respondent has activated the Mail Exchange ("MX") record of the disputed 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 disputed domain name.

Notably, the Complainant asserts that the disputed domain name is identical or confusingly similar to its trademark BPCE. The disputed domain name reproduces the Complainant's trademark in its entirety, with the prefix "solution privée" and the generic Top-Level Domain ("gTLD") ".com". As a technical condition of registration, the ".com" gTLD suffix should be disregarded in the comparison. Also, the Complainant argues that a domain name is confusingly similar to a trademark when the trademark is included, regardless of added terms, such as the prefix "solution privée". Therefore, these additional elements do not preclude a finding of confusing similarity and the public will tend to believe that the disputed domain name belongs to the Complainant.

Second, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no trademarks or trade names corresponding to the disputed domain name and the Complainant has never authorized the Respondent to register and/or use any domain name incorporating its Trademark. The Complainant has not granted any license, nor any authorization to use the Trademark, including as a domain name. Besides, the term “bpce” has no meaning in English or in French and the Trademark is well-known in France and abroad. In addition, the Complainant argues the Respondent’s use of the disputed domain name does not qualify as a bona fide offering of goods and services.

Third, with regard to bad faith registration and use of the disputed domain name by the Respondent, the Complainant notes that it is unquestionable that the registration of the Trademark pre-dates the registration of the disputed domain name. The choice of the disputed domain name does not seem to be a mere coincidence, but on the contrary seems to have been done on purpose to generate a likelihood of confusion with the Complainant’s Trademark. The Complainant points out that the disputed domain name leads to the website of its reseller, which does not prevent a finding of bad faith under the doctrine of passive holding.

Moreover, the Respondent has activated the MX record. MX activation allows the Respondent to create an email address using the disputed domain name for phishing attack. Email phishing attack is a type of social engineering attack usually used to steal user data, including logins and credit card numbers.

The Complainant is particularly concerned about this situation because, in the field of banking services, consumer protection and security services are a key issue given the sensitive nature of the data processed.

The Whols of the disputed domain name is anonymous, the information on the Respondent is hidden by the Registrar. The deliberate use of fictitious and/or ineffective contact particulars to register a domain name without any valid reason is bad faith and the subsequent use of the domain name is tainted by the bad faith.

The information the Registrar transmitted to the Center disclosed the registrant and contact information for the disputed domain name. This information indicated that the Respondent has provided false information about its identity and that it is using the identity of a BPCE employee.

This is not the first time that the identity of this BPCE employee is used by registrants in order to hide their identity. This was also the case in *BPCE v. Name Redacted*, WIPO Case No. [D2024-0733](#), between the same Complainant and Respondent as in this proceeding. In that case, the Panel notes that the Respondent used the disputed domain name to send a fraudulent email impersonating an employee of BPCE and using authentic contact details of the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to 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 has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent’s default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3.

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 name. Accordingly, the disputed domain name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the prefix "solution privee", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name 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.

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.

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.

Taking into account the composition of the disputed domain name, that the registrant details associated with the disputed domain name impersonate an employee of the Complainant, and that it is known from *BPCE v. Name Redacted*, *supra* that that respondent (impersonating the same employee) used MX records of domain names for sending fraudulent emails, as well as the lack of a Response from the Respondent, the Complainant's concern is justified that it is more likely than not that the Respondent will perform illegal activities with the disputed domain name, respectively its MX records. Such use would not provide the Respondent with any rights or legitimate interests in the disputed domain name.

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.

The Panel finds it likely that the Respondent was aware of the fact that it incorporated a recognized Trademark in which the Respondent had absolutely no prior rights. The Respondent has not offered any explanation to why it registered a domain name confusingly similar to the Complainant's Trademark. The Respondent also failed to explain why the domain name application was made in the name of an employee of the Complainant.

The record of this case does not entail any plausible legitimate reason for the Respondent to have registered the disputed domain name without any association with or authorization from the Complainant. The Panel cannot conceive any good faith use by the Respondent of the disputed domain name. The Panel therefore finds that the Respondent registered the disputed domain name in bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed 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.

Moreover, the Panel refers to its considerations under Section 6.B and adds the following:

From the record of this case, as well as from what is known from *BPCE v. Name Redacted*, supra, the Respondent apparently uses the identity of a specific BPCE employee to file domain name registrations in order to perform illegal activities with such domain names by sending fraudulent emails impersonating the employee of BPCE and using authentic contact details of the Complainant.

Therefore, it is the Panel's opinion that, on the balance of probabilities, it is more likely than not that the Respondent may use the disputed domain name in future to falsely suggest an affiliation with the Complainant. It is therefore justified that the Complainant is particularly concerned about this situation since the Complainant is active in the field of banking services, where consumer protection and security services are a key issue given the sensitive nature of the data processed.

Panels have held that the use of a domain name for illegal activity, here, at minimum impersonation of an employee of the Complainant, 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 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 disputed domain name <solutionpriveebpce.com> be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: July 26, 2024.