

ADMINISTRATIVE PANEL DECISION

BPCE v. 陈昌优 (Chang You Chen)

Case No. D2024-2857

1. The Parties

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

The Respondent is 陈昌优 (Chang You Chen), China.

2. The Domain Name and Registrar

The disputed domain name <bpce.group> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 12, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 in English on July 19, 2024.

On July 19, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On July 19, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on July 26, 2024. In accordance with the

Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 19, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on August 28, 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 a French joint stock company responsible for the banking networks Banques Populaires and Caisses d'Epargne, which together constitute the second largest banking group in France. The group is engaged in banking, financing, and insurance. Its 105,000 employees serve 36 million customers.

The Complainant has an extensive global portfolio of trade marks incorporating BPCE, which includes the following:

- European Union Trade Mark Registration No. 8375842 for BPCE in Class 36, registered on January 12, 2010;
- French Trade Mark Registration No. 3653852 for BPCE in Classes 9, 16, 35, 36, 38, 41, and 45, registered on May 29, 2009; and
- International Trade Mark Registration No. 1033662 for BPCE in Class 36, designating inter alia Japan and Singapore, registered on December 15, 2009.

The Complainant operates under its domain name <groupebpce.com> since 2009.

The disputed domain name was registered on April 21, 2017.

According to evidence provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to an inactive page. At the time of issuance of this Decision, the disputed domain name continued to resolve to an inactive page.

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 contends that the disputed domain name registered by the Respondent is identical or confusingly similar to the Complainant's BPCE trade marks, and that the addition of the generic Top-Level Domain ("gTLD") ".group" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

The Complainant asserts that it has not authorized the Respondent to use the BPCE mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the BPCE mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

In accordance with paragraph 11(a) of the Rules:

"[...] the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should be Chinese.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for the following reasons:

- the Complainant is located in France and has no knowledge of Chinese;
- to require Chinese translations would be burdensome and costly for the Complainant;
- the disputed domain name includes only Latin characters and redirects to a website hosted on servers of "dan.com", a brand under Godaddy (an American company), which suggests that the Respondent has knowledge of language other than Chinese; and
- English is the primary language for international business.

Further, the Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding or submit any response in either Chinese or English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all of the foregoing, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English, and as such, the Panel has issued this decision in English. The Panel believes that this determination should not create any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

6.2 Substantive Issues

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel acknowledges that the Complainant has established rights in the BPCE trade marks in many jurisdictions around the world.

Disregarding the gTLD “.group”, the disputed domain name incorporates the Complainant's trade mark BPCE in its entirety. Thus, the disputed domain name is identical to the Complainant's BPCE trade mark.

The Panel notes that the Complainant operates under the domain name <groupebpce.com> and in this case the gTLD is “.group”. [WIPO Overview 3.0](#), section 1.11.

The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the BPCE trade mark and in showing that the disputed domain name is identical to its mark.

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 asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been adduced to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. At the time the Complaint was filed, the disputed domain name resolved to an inactive page.

There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

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.

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also 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.

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the BPCE trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is identical to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Respondent has provided no evidence to justify his choice of the term "bpce" in the disputed domain name.

The Complainant's registered trade mark rights in BPCE for its products and services predate the registration date of the disputed domain name. A simple online search (via services such as Baidu or Google) for the term "bpce" would have revealed that it is an established brand. [WIPO Overview 3.0](#), section 4.8.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

In light of the foregoing, there are no plausible good faith reasons for the Respondent to have registered and used the disputed domain name.

While the disputed domain name has not resolved to an active website, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. See [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds that the disputed domain name was registered and used in bad faith.

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 <bpce.group> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: September 5, 2024