

ADMINISTRATIVE PANEL DECISION

BPCE v. Temikou Mahugnon
Case No. D2024-4990

1. The Parties

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

The Respondent is Temikou Mahugnon, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <bnkbpce.online> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 3, 2024. On December 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 amended Complaint on December 5, 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 December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 8, 2025.

The Center appointed Áron László as the sole panelist in this matter on January 13, 2025. 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, a French joint-stock company which acts as the central institution of the Banques Populaires and Caisses d'Epargne banking networks. The Complainant carries out a full range of banking, financial, and insurance activities through its cooperative banking networks and subsidiaries. The Complainant is well established in the local markets and has 105,000 employees serving 36 million customers. Through its subsidiaries, the Complainant is present in more than 40 countries.

The Complainant is the owner several trademarks including the following:

- European Union trademark BPCE (figurative) Reg. No. 8375875 registered on January 12, 2010;
- European Union trademark BPCE (word) Reg. No. 8375842 registered on January 12, 2010;
- United States trademark GROUPE BPCE (figurative) Reg. No. 5743541 registered on May 7, 2019.

The Complainant is also the owner, directly and through its subsidiary GCE TECHNOLOGIES, of the domain names <bpce.fr>, registered in 2008, <groupebpce.fr> and <groupebpce.com>, registered in 2009, which relate to the Complainant's main website.

The disputed domain name was registered on October 24, 2024. There is no content available through the disputed domain name.

The Respondent is a private individual having an address in the United States.

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 contends that the disputed domain name contains the well-known BPCE trademarks in their entirety with the prefix "bnk" and the extension ".online". Those additional elements do not prevent a finding of confusing similarity. Indeed, the identical reproduction of the BPCE trademarks in the disputed domain name is sufficient to establish confusing similarity.

The addition of the misspelled word "bnk" is understood to be descriptive and to refer directly to the Complainant. Moreover, the addition of this descriptive term refers to the fact that the Complainant is interested in banking, which clearly emphasises rather than undermines the link between the disputed domain name and the Complainant and thus contributes to increasing the likelihood of confusion. In any event, the term "bnk" has no impact on the overall impression of the dominant part of the disputed domain name "bpce".

Concerning the second element, the Complainant contends that the Respondent does not own any trademarks or trade names corresponding to the disputed domain name and the Complainant has never authorised the Respondent to register and/or use any domain name containing the BPCE trademarks. The Complainant has not granted any licence or authorisation to use the trademarks as a domain name.

The Respondent has no right to use the disputed domain name. In view of the foregoing, it is clear that the Respondent's use of the disputed domain name does not constitute a bona fide offer of goods and services. Under these circumstances, the Respondent has no rights or legitimate interests to use the disputed domain name.

As regards the third element, the Complainant contends that its trademarks predate the registration of the disputed domain name. The Complainant and its subsidiaries are well known in France and throughout the world, particularly among consumers in the financial and banking markets. Indeed, the previous panels have recognised the Complainant's reputation in previous decisions. Consequently, the choice of the disputed domain name does not appear to be a mere coincidence, but, on the contrary, appears to have been deliberately chosen in order to create a likelihood of confusion between the disputed domain name and the Complainant's trademarks. The Complainant's trademarks are well known, and therefore, in accordance with the previous decisions, the registration of the disputed domain name must have been made in bad faith.

Also, the disputed domain name leads to a parked page and is not active. The Center has previously held that the current inactive status of the disputed domain name does not preclude a finding of bad faith under the passive holding doctrine.

Furthermore, the disputed domain name has been registered with a Mail Exchanger (MX) record, which is a type of resource record in the Domain Name System that identifies a mail server responsible for accepting email messages on behalf of a recipient's domain name and provides a preference value that is used to prioritise mail delivery when multiple mail servers are available. Consequently, MX activation allows the Respondent to create an email address using the disputed domain name for a phishing attack. 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. This has been recognised in several previous decisions.

The identity of the Respondent was concealed. Moreover, the Respondent's address does not exist.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- i. the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- ii. the respondent has no rights or legitimate interests in respect of the domain name; and
- iii. the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a), and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules.

The Panel may accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint wholly contains mere conclusory or unsubstantiated arguments. 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "bnk" may bear on assessment of the second and third elements, the Panel finds the addition of such term, which is likely to be understood as a misspelling of the word "bank" by most Internet users, 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.

The Panel notes that the disputed domain name has not been used. Therefore, no evidence shows that the disputed domain name has been used for the bona fide offering of goods or services, or noncommercial or fair use.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may 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.

The Complainant's trademarks, which are well known, predate the registration of the disputed domain name. Consequently, the choice of the disputed domain name does not appear to be a mere coincidence, but, on the contrary, appears to have been deliberately chosen in order to create a likelihood of confusion between the disputed domain name and the Complainant's trademarks.

The fact that the disputed domain name was configured with a MX record gives rise to the suspicion that the Respondent may have intended to use the disputed domain name for phishing purposes, which is a very common practice in the banking sector.

Panels have found that the non-use of a domain name (including a blank page) 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 or reputation of the Complainant's trademark, and the composition of the disputed domain name, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, the provision of the false or incomplete contact details by the Respondent when registering the disputed domain name (the courier service was not able deliver the Center's Written Notice due to "bad faith"), 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.

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 <bnkbpce.online> be transferred to the Complainant.

/Áron László/

Áron László

Sole Panelist

Date: January 22, 2025