

ADMINISTRATIVE PANEL DECISION

BPCE v. Zack Levy
Case No. D2024-5012

1. The Parties

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

The Respondent is Zack Levy, France.

2. The Domain Names and Registrar[s]

The disputed domain names <bpceconfirmations.com>, <bpceservice.com>, and <groupbpceapp.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2024. On December 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 6, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 9, 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 9, 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 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 13, 2025.

The Center appointed William Lobelson as the sole panelist in this matter on [Panel appointment date]. 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, one of the largest financial and banking company in France, that has been operating worldwide for many years.

It owns various trademark registrations for BPCE, such as:

- European Union trademark BPCE & device, registered under number 8375875 on January 12, 2010, for services in class 36;
- European Union trademark BPCE, registered under number 8375842 on January 12, 2010, for services in class 36;
- French trademark BPCE & device, registered under number 3653852 on May 29, 2009, for goods and services in classes 9, 16, 35, 36, 38, 41 and 45;
- French trademark BPCE & device, registered under number 3658703 on June 19, 2009, for goods and services in classes 9, 16, 35, 36, 38, 41 and 45;
- International trademark BPCE & device, registered under number 1033662 on December 15, 2009, for services in class 36; and
- United States of America trademark GROUPE BPCE & device, registered under number 5743541 on May 7, 2019, for services in class 36.

The disputed domain name <bpcservice.com> was registered on October 24, 2024; <groupbpceapp.com> was registered on October 22, 2024; and <bpceconfirmations.com> was registered on October 21, 2024.

The disputed domain names do not resolve to any active web page. Two of them access to a warning page marked as “dangerous web site”. In addition, mail exchange (“MX”) servers have been set up in relation with two of the disputed domain names.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its earlier trademark, that the Respondent has no rights or legitimate interests in the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names (paragraph 4(a)(ii)); and
- (iii) the disputed domain names have been registered and are being used in bad faith (paragraph 4(a)(iii)).

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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the mark BPCE is recognizable 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 "service", "group", "app", and "confirmations") may bear on assessment of the second and third elements, the Panel finds the addition of such terms do 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.

Based on the available record, 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 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.

The Complainant has made a prima facie showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain names.

The Complainant further contends that the Respondent is not commonly known under the disputed domain names and does not make any bona fide or legitimate non-commercial use of the same.

Based on the available record, 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 claims that the Respondent has registered the disputed domain names and uses the same in bad faith, even though the said domain names do not resolve towards any active webpage.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, such as the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (which constitutes passive holding), does not as such prevent a finding of bad faith.

The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the complainant having a well-known trademark, no response to the complaint having been filed, and the respondent's concealment of its identity. UDRP panels may draw inferences about whether a domain name was used in bad faith given the circumstances surrounding the registration.

The Complainant has contended that its trademark BPCE, which has been registered and used for years, now benefits from a certain level of public awareness, particularly in France.

Earlier UDRP decisions have acknowledged the reputation of the Complainant's trademark. See, e.g., *BPCE v. WhoisGuard Protected, WhoisGuard, Inc. / Fransis Coarno, Danstic*, WIPO Case No. [D2020-0967](#); *BPCE v. Pierre Agou Michel*, WIPO Case No. [D2020-2361](#); *BPCE v. Seymi Lozano*, WIPO Case No. [D2022-4185](#); and *BPCE v. Emmanuel Asamoah*, WIPO Case No. [D2022-3866](#).

Further the disputed domain names were registered using a privacy service filed anonymously, but when the identity of the Respondent was disclosed by the Registrar, it was confirmed that this individual was based in France.

The fact that the Respondent used a French address implies that he is a French resident or at least has connections with France, where the Complainant's mark has a reputation.

Regarding the high similarity between the disputed domain names and the Complainant's well-known trademark BPCE, it is highly likely that the disputed domain names were registered in bad faith.

The Panel also notes that the Respondent did not reply to the Complaint.

The Panel infers from the above that the Respondent acted in bad faith when he registered the disputed domain names, and still acts in bad faith.

The disputed domain names do not direct to any active web page.

As stated in [WIPO Overview 3.0](#), section 3.3, there is a consensus view about “passive holding”:

“From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

Such passive holding in the circumstances of this case, is to be regarded as use in bad faith (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#); *Westdev Limited v. Private Data*, WIPO Case No. [D2007-1903](#); *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#); and *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)).

Further, the Complainant has filed evidence showing that the Respondent had set up MX servers in relation with two of the disputed domain name, thus revealing a possible intention to use the same as an email address.

Although no evidence of fraudulent acts has been brought in support of the present proceedings, the Panel is not unaware of the common practice whereby hackers register domain names consisting of well-known brand names or company names, in order to use email addresses imitating the same, with the aim of engaging in acts of deception and extortion of Internet users.

The creation of an email address - based on the disputed domain name - that could lead the recipient of a message sent from this address to believe that it is from the Complainant would constitute bad faith use of the disputed domain name (See *Credit Industriel et Commercial S.A. v. Zabor Mok*, WIPO Case No. [D2015-1432](#)).

Based on the available record, 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 <bpceconfirmations.com>, <bpceservice.com>, and <groupbpceapp.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: January 28, 2025