

## ADMINISTRATIVE PANEL DECISION

Banque Palatine v. Name Redacted

Case No. D2024-5086

### 1. The Parties

The Complainant is Banque Palatine, France, represented by KALLIOPE Law Firm, France.

The Respondent is Name Redacted<sup>1</sup>.

### 2. The Domain Name and Registrar

The disputed domain name <espace-palatine.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 10, 2024. On December 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 12, 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 17, 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 19, 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

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<sup>1</sup> Respondent appears to have used the name and contact details of a third person 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 Respondent’s name. 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case.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 *ASOS plc. v. Name Redacted*, WIPO Case No. [D2017-1520](#); *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2025. The Center received an email communication from a third party on December 23, 2024, alleging identity theft. The Respondent did not submit any response. The Center informed the Parties that it would proceed with panel appointment on January 14, 2025.

The Center appointed Alexandre Nappey as the sole panelist in this matter on January 22, 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 Banque Palatine, a French bank founded in 1780 and specialized in small and medium-sized companies and in asset management.

Banque Palatine is a wholly owned subsidiary of Groupe BPCE, one of the largest banking groups in France and which is well-known in the international market and is present in more than 40 countries via its various subsidiaries.

Banque Palatine is the owner of numerous trademarks including the following:

- The French trademark PALATINE registered under number 3314051 on September 22, 2004, for services in classes 35 and 36 duly renewed;
- The French trademark PALATINE registered under number 3338990 on February 3, 2005, for goods and services in classes 9, 16, 38, 41, 42, and 45 duly renewed;
- The European Union trademark PALATINE registered under number 004353223 on July 31, 2006, for goods and services in class 9, 16, 35, 36, 38, 41, 42, duly renewed;
- The French trademark BANQUE PALATINE registered under number 3644179 on April 15th, 2009, for services in class 35, 36, 38, duly renewed;
- The International trademark BANQUE PALATINE L'Art d'être Banquier registered under number 1066933 on January 12, 2011, for services in class 35 and 36, duly renewed (hereinafter, the “Trademarks”).

Banque Palatine is also the owner of the domain name <www.palatine.fr> registered in 2004 and corresponding to an active website, the institutional portal of Banque Palatine.

The disputed domain name <espace-palatine.com> was registered on October 14, 2024. The disputed domain name is not active at the date of the Decision, but MX servers are set up.

#### **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 <espace-palatine.com> is similar to its earlier trademark PALATINE, to the point of creating confusion.

Indeed, the disputed domain name contains the well-known trademark PALATINE in its entirety with the prefix “espace” and the extension “.com”. These additional elements do not prevent a finding of confusing similarity.

Then, the Complainant contends that the Respondent has no rights or legitimate interests to use the disputed domain name.

The Complainant has never authorized the Respondent to register and/or use any domain name incorporating the Trademarks.

The Complainant has not granted any license, nor any authorization to use the Trademarks, including as a domain name.

Third, the Complainant claims that the disputed domain name was registered and is being used in bad faith. The Complainant contends that Banque Palatine and its parent company BPCE Group are well-known in France and across the world, notably by the financial and banking market consumers.

Consequently, the Complainant contends that 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 Trademarks.

The Complainant also contends that the passive holding of the disputed domain name in the circumstances of this case does not prevent a finding of bad faith registration and use, and further constitutes a disruption of the Complainant’s business.

The Complainant contends that the disputed domain name was registered anonymously which also demonstrates the bad faith of the Respondent.

The Complainant contends that MX activation allows the Respondent to create email addresses using the disputed domain name for phishing attacks. Therefore, the use of the MX registration leads to conclude to the fraudulent intent of the Respondent, which constitutes bad faith.

## **B. Respondent**

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

On December 23, 2024, a third party sent the following email to the Center:

“Case No D2024-5086  
espace-palatine.com

Dear Sir, Dear Madam,

I just wanted to tell you that I am in no way the owner of the Domain name “espace-palatine”. This is identity theft. If my name and address are correct, the phone number and email address are wrong. I would like to specify that I will file a complaint with the French Police Services.

Yours sincerely

[Name Redacted]”.

## 6. Discussion and Findings

Notwithstanding the default of the Respondent, the Complainant has the burden of proof to make its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

- (i) the disputed domain name 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”.

Having considered the Parties’ submissions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel’s findings on each of the above-mentioned elements are the following.

### 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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[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. (See [WIPO Overview 3.0](#), section 1.2.1).

The entirety of the PALATINE 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. (See [WIPO Overview 3.0](#), section 1.7).

Although the addition of other terms, here “espace” (which means “space” in French), 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 name and the mark for the purposes of the Policy. (See [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. (See [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 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 has shown that its PALATINE trademarks have been registered and used for years.

Thus, taking into consideration the Complainant's goodwill in the PALATINE trademarks, and in the absence of arguments or evidence to the contrary, the Panel finds that the circumstances of this case indicate that, on the balance of probabilities, the Respondent knew or should have known about the Complainant and likely registered the disputed domain name to target the Complainant's mark. The fact that the Respondent used false contact details when registering the disputed domain name supports Panel's finding on bad faith.

Panels 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. (See [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, 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 Complainant has produced evidence showing that the Respondent had set up MX servers in relation to the disputed domain name, which suggests that the Respondent may use it as an email address, which could further be evidence of bad faith.

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 <espace-palatine.com> be transferred to the Complainant.

*/Alexandre Nappey/*

**Alexandre Nappey**

Sole Panelist

Date: January 25, 2025