

ADMINISTRATIVE PANEL DECISION

BPCE v. Anastasiya Nikolaeva

Case No. D2022-0138

1. The Parties

The Complainant is BPCE, France, represented by DBK – Société d’avocats, France.

The Respondent is Anastasiya Nikolaeva, the Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <bpcecapitals.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 14, 2022. On January 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2022 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 February 9, 2022.

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 February 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2022.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on April 4, 2022. 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 and is the central institution responsible for two banking networks: Banques Populaires and Caisses d'Épargne. Its head office is in Paris, France. It is the second largest banking group in France with 105,000 employees and 36 million customers.

It is present in 40 countries or more. The Complainant is the owner of numerous registered trademarks, including: the French trademark BPCE and device (No. 3653852) registered on May 29, 2009, for services in Classes 9, 16, 35, 36, 38, 41 and 45; a French trademark BPCE (No. 3658703) registered on June 19, 2009, for services in Classes 9, 16, 35, 36, 38, 41 and 45; the European Union trademark BPCE (No. 008375842) registered on June 19, 2009, for services in Class 36; the European Union trademark BPCE and device (No. 008375875) registered on June 19, 2009, for services in Class 36; and the International trademark BPCE and device (No. 1033662) registered on December 15, 2009, for services in Class 36.

The Complainant also owns domain names directly and also via its subsidiary GCE TECHNOLOGIES, such as domain name <bpce.fr> registered in 2008 and domain name <groupebpce.fr> registered in 2009 and corresponding to an active website, the institutional portal of BPCE.

The disputed domain name was registered on September 17, 2021.

The disputed domain name resolves to a website in Russian where banking services are offered, that reproduces the trademarks of the Complainant and where Internet users are induced to provide private and confidential information.

5. Parties' Contentions

A. Complainant

The Complainant says that its trademarks are reproduced identically and entirely in the disputed domain name. The use of the word "capitals" does not avoid the likelihood of confusion with those trademarks, but instead directly refers to the Complainant's financial activities. According to the Complainant, the inclusion of its trademarks in the disputed domain name leads members of the public to believe that the disputed domain name belongs to the Complainant.

The Complainant says it did not authorize the use of its trademarks, nor their incorporation in the disputed domain name. The term "bpce" has no meaning in English or French and the Complainant's trademarks are said to be well-known in France and throughout the world. The Complainant contends that therefore the disputed domain name is calculated to confuse or deceive, as it falsely suggests that any services provided under it are linked to the Complainant. The Respondent's use does not qualify as the *bona fide* offering of goods or services. In the circumstances, the Respondent has no rights or legitimate interests in the disputed domain name, according to the Complainant.

The Complainant points out that the registration of its relevant trademarks predates the registration by the Respondent of the disputed domain name. According to the Complainant, its trademarks are well-known in France and around the world, in particular in relation to banking and financial services, hence the registration of the disputed domain name is not coincidental but intended to generate confusion with the Complainant's trademarks. Because of the well-known status of its trademarks, the Complainant contends that the Respondent's registration of the disputed domain name is *per se* in bad faith.

The disputed domain name resolves to a website that offers banking services, thereby generating confusion, and induces Internet users to create an account and disclose personal and confidential information in the

process. The Complainant asserts that it is particularly concerned about this situation because, in the field of banking services, consumer protection and security are key issues given the sensitivity of the data they supply. Furthermore, the Respondent used a “whois protection service” to disguise its identity. Therefore, the limited information displayed on the website, which offers banking services, does not allow the Registrant to be identified and/or contacted.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is not identical to the BPCE registered trademarks of the Complainant. However, the highly distinctive BPCE mark has been incorporated into the disputed domain name in its entirety and is immediately recognizable within it. The addition of the term “capitals” does prevent a finding of confusing similarity between the relevant trademarks and the disputed domain name.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the BPCE trademarks of the Complainant.

B. Rights or Legitimate Interests

The Respondent has not replied to any of the contentions of the Complainant. The latter has not authorized or permitted the Respondent to use its trademarks in any way, and there is nothing before the Panel to indicate that the Respondent is known by the disputed domain name or has used the trademark BPCE in some legitimate capacity at all. The disputed domain name resolves to a website that offers banking services without in fact making those available. It is in any case unimaginable that the Respondent could provide legitimate banking services by relying on a domain name that incorporates the distinctive and highly reputed trademark owned by the Complainant. The only purpose the disputed domain name serves is to deceive consumers into thinking the website to which it resolves is authorized by the Complainant, and trick them into providing private and confidential information. This is not an activity likely to give rise to any rights or legitimate interests in one who engages in it.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The BPCE registered trademarks of the Complainant are highly distinctive and have a well-established reputation both in France and further afield. It is highly improbable that the Respondent was unaware of the Complainant or of the goodwill attaching to the BPCE marks when registering the disputed domain name. That conclusion is further reinforced by the inclusion of the descriptive term “capitals” in the disputed domain name, relevant as it is to the finance industry, which clearly indicates that the Respondent was aware of the Complainant’s financial services activities. Further, the Respondent has linked the disputed domain name to a website on which banking and financial services are offered, and which suggests affiliation with the Complainant by various means. It serves the dishonest purpose of obtaining private and confidential information from unsuspecting Internet users who are deceived by the composition of the disputed domain name and the nature and appearance of the relevant website.

Therefore, the Panel holds 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 <bpcecapitals.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: April 12, 2022