

ADMINISTRATIVE PANEL DECISION

BPCE v. bernier didier
Case No. D2024-0875

1. The Parties

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

The Respondent is Bernier Didier, France.

2. The Domain Name and Registrar

The disputed domain name <bp-ce-patrimoine.net> is registered with Squarespace Domains LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 28, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 29, 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 March 1, 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 March 1, 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 March 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 28, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on April 8, 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 one of the largest banking groups in France, acting as the central institution responsible for the two banking networks Banques Populaires and Caisses d'Epargne.

The Complainant operates a full range of banking, financial, and insurance activities. It employs 105,000 people and serves a total of 36 million customers. BPCE is present in more than 40 countries through its different subsidiaries.

The Complainant is the owner of numerous trade marks including the following ones:

- European Union trade marks BPCE and  BPCE, No. 008375842 and No. 008375875, both registered on January 12, 2010;
- French trade mark BPCE, No. 3653852, registered on May 29, 2009; and
- French trade mark  BPCE, No. 3658703, registered on June 19, 2009.

The Complainant and its subsidiary GCE Technologies also registered domain names reflecting the trade mark BPCE, for example <bpce.fr>, registered in 2008, and <groupebpce.com>, registered in 2009.

The disputed domain name was registered on February 15, 2024 and, at the time of the filing of the Complaint, according to a screenshot provided by the Complainant, it resolved to a website under construction. Now the disputed domain name resolves to an inactive website, but it has been used to create at least one email address to send messages to at least one potential client in February, 2024. The phishing email was signed by a person who, claims the Complainant, is one of its employees. This was not proven by the Complainant, but the Panel quickly confirmed it with a search online.

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 alleges that the disputed domain name is identical or confusingly similar to its trade mark BPCE duly exploited for banking and financial services. The disputed domain name reproduces the Complainant's trade mark in its entirety, with the addition of the term "patrimoine" after a hyphen, and the generic Top-Level Domain ("gTLD") ".net". As a technical condition of registration, the gTLD ".net" should be disregarded in the comparison. According to the Complainant, in its own words, the word "patrimoine" is descriptive and the addition of a descriptive term does not avoid the likelihood of confusion resulting from the inclusion of the trade mark in the disputed domain name. Therefore, the disputed domain name is confusingly similar to the Complainant's trade mark and the public will tend to believe that the disputed domain name is related in one way or another to the Complainant.

Second, the Complainant indicates that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent has no trade marks or trade names corresponding to the disputed domain name and the Complainant has never authorized the Respondent to register and/or use any domain name incorporating its trade marks. Besides, the term "bpce" has no meaning in English or in French and the trade marks BPCE are well known in France and abroad. The Complainant asserts that the Respondent has never been granted any license, nor any authorization to use the trade marks BPCE, including as a domain name.

Referring to the use of the disputed domain name for the creation of a fraudulent email, the Complainant argues that the Respondent's use of the disputed domain name does not qualify as a bona fide offering of goods and services.

With regard to bad faith registration and use of the disputed domain name by the Respondent, the Complainant notes that it is unquestionable that the registrations of the trade marks BPCE pre-date the registration of the disputed domain name. 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 Complainant's trade marks. Moreover, the Respondent has activated the mail exchange ("MX") servers for phishing purposes in order to send fraudulent emails using the identity of the Complainant's employee. The email address created has been used to send investment offerings to potential clients of BPCE. Finally, the Complainant states that the Respondent's bad faith is also evident in the Respondent's willingness to conceal its identity by registering the disputed domain name anonymously and providing false coordinates to the Registrar.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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 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 the trade mark BPCE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Although the addition of another term, here "patrimoine" and the presence of a hyphen in between the initials BPCE, may bear on assessment of the second and third elements, the Panel finds the addition of such elements 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.

Panels have held that the use of a domain name for illegal activity here, claimed, phishing, impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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, of all the arguments presented by the Complainant, the Panel notes that the Respondent used the disputed domain name to send at least one fraudulent email impersonating an employee of BPCE and using authentic contact details of the Complainant.

Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <bp-ce-patrimoine.net> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: April 10, 2024