

## **ADMINISTRATIVE PANEL DECISION**

BPCE v. Kallaa kallaa  
Case No. D2024-0502

### **1. The Parties**

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

The Respondent is Kallaa kallaa, France.

### **2. The Domain Name and Registrar**

The disputed domain name <monespace-caisseepargne.net> (the “Disputed Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 3, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 February 8, 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 February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Isabelle Leroux as the sole panelist in this matter on March 15, 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 is the holding company of one of the largest banking groups in France, with two major retail banking networks, "Banque Populaire" and "Caisse d'Epargne", and is operating a full range of banking, financing and insurance activities. Through its subsidiaries, the Complainant is also active outside France, in over 40 countries worldwide.

For the needs and purposes of its activities, the Complainant is also the owner, amongst others of:

- French trademark CAISSE D'EPARGNE No. 1658134, registered on April 26, 1991, and duly renewed;
- European Union trademark CAISSE D'EPARGNE No. 000637504, registered on April 8, 1999, and duly renewed;
- French trademark registration for LA CAISSE D'EPARGNE No. 3155888, registered on March 27, 2002.

In addition, the Complainant owns and operates <caisse-epargne.com> domain name, registered in 1998 and <caisse-epargne.fr> domain name, registered in 2009, which enable customers to access their bank accounts and conduct online transactions.

The Disputed Domain Name was registered on November 11, 2023, resolves to an error page (website inaccessible).

Based on the information disclosed by the Registrar, the Complainant is Kallaa kallaa, domiciliated in France.

#### **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:

(i) The Disputed Domain Name is confusingly similar to the Complainant's trademarks, since it fully reproduces the Complainant's trademarks;

(ii) The Respondent has no rights or legitimate interests in the Disputed Domain Name since the Complainant has not granted any license, nor any authorization to use its trademarks;

(iii) The Respondent registered and used the Disputed Domain Name in bad faith since:

- The Complainant's trademarks predate the registration date of the Disputed Domain;
- The Complainant's trademarks are well-known in France by the financial and banking market consumers;
- The choice of the Disputed Domain Name has been done on purpose to generate a likelihood of confusion with the Complainant's trademarks and domain names.

##### **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant has to prove each of the following three elements in order to succeed in its Complaint:

- (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.

### 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 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. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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.

Furthermore, the Panel considers that the omission of the letter "d" from the trademark is a typical case of a typosquatting. [WIPO Overview 3.0](#), section 1.9. Although the addition of other terms here, "monespace" 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. [WIPO Overview 3.0](#), section 1.8.

The addition of the generic Top-Level Domain ("gTLD") ".net" does not either prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.11.

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.

There is no evidence that the Respondent is commonly known under the Disputed Domain Name. The Respondent was not licensed nor authorized by the Complainant to use the latter's CAISSE D'EPARGNE trademarks. The Disputed Domain Name resolves to an inaccessible webpage, and there is no evidence that the Respondent is using or preparing to use it for any legitimate 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.

In the present case, the Panel notes that the Respondent registered the Disputed Domain Name incorporating the Complainant's well-known CAISSE D'EPARGNE trademarks (noting also that there are earlier UDRP decisions in which the respective panels decided that such trademarks is well-known). The trademark registrations predate the registration date of the Disputed Domain Name by many years and the Panel considers that the Respondent, located in France where the Complainant has its main business and is specifically well-known, has intentionally and opportunistically targeted the Complainant's trademark at the time of registering the Disputed Domain Name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademarks and the composition of the Disputed Domain Name, as well as the Respondent's failure to provide a response, 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.

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 Name <monespace-caisseepargne.net> be transferred to the Complainant.

*/Isabelle Leroux/*

**Isabelle Leroux**

Sole Panelist

Date: March 29, 2024