

ADMINISTRATIVE PANEL DECISION

BPCE v. zack levy
Case No. D2024-2786

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

The disputed domain names <bpce-service.pro> and <service-bpce.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 July 12, 2024. On July 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 12, 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 July 16, 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 July 17, 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 July 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on August 16, 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, a French corporation, ranks amongst the top banking, insurance and financial services groups in France, and is the result of the combination of Banque Populaire and Caisse d'Épargne, two large cooperative banking networks. Its 105,000 employees serve 36 million clients, out of whom 9 million are cooperative shareholders. The Complainant, through its subsidiaries, is present in over 40 countries worldwide.

The Complainant owns several registered trademarks containing the term “bpce”, including, inter alia, the French trademark registration No. 3653852 for BPCE, registered on May 29, 2009 (hereinafter referred to as: the “Mark”).

The Complainant also owns directly or through a dedicated subsidiary many domain names with the term “bpce”, such as <bpce.fr>, registered on November 27, 2008.

The disputed domain names were registered on June 6, 2024.

The disputed domain names did not resolve to any active website, and at the time of the Decision, they resolve respectively to an error page and to a blocked, dangerous page.

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 names reproduce the Mark, in which it has rights, and are confusingly similar to the Mark insofar as the disputed domain names contain the Mark and that the addition of the descriptive word “service” and a hyphen before or after the Mark is not capable of dispelling the confusing similarity, as the Mark remains recognizable in the disputed domain names.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names and never had any affiliation with the Complainant (which never authorized the Respondent to use the Mark in any manner).

Furthermore, the Complainant contends that the Respondent had knowledge of the Mark and registered the disputed domain names in bad faith, and is also using them in bad faith under the passive holding doctrine.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Aspects – Failure to Respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, Paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under Paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain names have been met, even in the event of a default.

Under Paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that, as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in Paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain names, such as making legitimate noncommercial or fair use of the disputed domain names.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of Paragraph 4(a) of the Policy

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.

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 that the Mark is recognizable within the disputed domain names, despite the Mark being either preceded or followed by the word "service" and a hyphen.

Accordingly, the disputed domain names are confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of another element here, such as the word "service", may bear on assessment of the second and third elements, the Panel finds the addition of such element does 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.

Regarding the generic Top-Level Domains ("gTLD") ".com" or ".pro" in the disputed domain names, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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.

While 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 often impossible 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. 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.

The Panel notes that for the registration of the disputed domain names, the name “zack levy” was provided by the Respondent. The Panel is aware of a pattern of conduct by this person, or entity with such a name, whose various domain name registrations have been ordered to be transferred to complainants by five prior UDRP panels.

Having reviewed the 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.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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. Having reviewed the 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. 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the composition of the disputed domain names, which are confusingly similar to the Complainant’s Mark in use since 2009, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Furthermore, regarding the degree of distinctiveness or reputation of the Mark, several prior UDRP panels have confirmed that the Mark is well known (see for instance *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. Emmanuel Asamoah*, WIPO Case No. [D2022-3866](#) and *BPCE v. Seymi Lozano*, WIPO Case No. [D2022-4185](#)).

Moreover, as noted above, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use.

Finally, considering the size of the Complainant's operations and the fact that banking, insurance and financial services are highly regulated industries in France (where the Complainant is headquartered and where the Respondent is apparently located), the Panel finds it impossible to imagine any good faith use to which the disputed domain names could be put by the Respondent.

In addition, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, paragraph 2(b); *Nike, Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

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 <bpce-service.pro> and <service-bpce.com> be transferred to the Complainant.

/Louis-Bernard Buchman/
Louis-Bernard Buchman
Sole Panelist
Date: August 30, 2024