

## ADMINISTRATIVE PANEL DECISION

Landesbank Baden-Württemberg v. Name Redacted  
Case No. D2022-0331

### 1. The Parties

The Complainant is Landesbank Baden-Württemberg, Germany, represented by Bird & Bird LLP, Germany.

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

### 2. The Domain Name and Registrar

The disputed domain name <banking-bw-bank.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 31, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 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 February 8, 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 amendment to the Complaint on February 8, 2022.

The Center verified that the Complaint, together with the amendment to the 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 11, 2022. In accordance with the Rules,

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<sup>1</sup> The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the 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 the name of the Respondent. 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net/Name Redacted*, WIPO Case No. D2009-1788.

paragraph 5, the due date for Response was March 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 4, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on March 7, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

According to the evidence provided by the Complainant, and uncontested by the Respondent, the Complainant is an institution under public law that provides financial services as a mid-sized universal bank to companies, retail and institutional customers and savings banks. Further, the Complainant fulfils the role of a central bank for the savings banks in the German federal states of Baden-Württemberg, Rhineland-Palatinate und Saxony.

The Complainant has registered several trademarks consisting of BW-Bank including the European Union Trade Mark registration No. 004988929 registered on October 18, 2007, covering goods in classes 35, 36, 38 and 42.

The Complainant has several domain names which incorporate the trademark BW-Bank including <bw-bank.de>, used as the main website of the Complainant.

The disputed domain name was registered on September 16, 2021 and resolves to a parking page with links to third party service offerings in the field of banking and finance.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name is confusingly similar to its trademarks, corporate name and domain names, as the different spelling with upper- and lower-case letters is not sufficient to deny an identity between the signs. Likewise, the addition of the term "banking" within the disputed domain name will not eliminate the similarity of the signs, as the term "banking" will simply be perceived by the relevant public as a description of the Complainant's business activity.

As regards the second element, the Complainant argues that it has not granted any licence or authorization of any other kind to the Respondent to use the BW-BANK trademarks or its company name. There has never been any kind of business relationship between the Complainant and the Respondent. The disputed domain name falsely suggests an affiliation with the Complainant. The Complainant concludes that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name.

In what concerns the third element, the Complainant argues that the Respondent has registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks, domain names and company name of the Complainant. The website at the disputed domain name provides links to third party service offerings in the field of banking and finance. The Complainant also indicates that its registration and use of the relevant trademarks and domain names clearly predate the date at which the Respondent registered the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, on March 10, 2022, the Center received an email communication from the Respondent's representative, who alleges that there was a mistake in the Respondent's identification. It was claimed that the Respondent has never registered any domain name and that the email and telephone of the registration, as disclosed by the Registrar, were not from him. Therefore, it was requested to remove his name from this proceeding.

## **6. Discussion and Findings**

### **Preliminary Matters**

Considering the communication received, the Panel considers that the Respondent, whose identity was disclosed by the Registrar in response to the Center's request for registrar verification, was most likely victim of identity theft and had no knowledge of the registration and use of the disputed domain name.

For this reason, the Panel finds appropriate in this proceeding to redact the actual name of the Respondent to protect his identity. See *Accenture Global Services Limited v. Domains by Proxy, LLC / Name Redacted*, WIPO Case No. [D2013-2099](#); *Independent Health Association Inc. v. Registration Private, Domains By Proxy, LLC / [K.A.]*, WIPO Case No. [D2016-1625](#).

### **Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence of its rights in the BW-BANK trademarks. The trademark BW-BANK is reproduced in its entirety in the disputed domain name. The addition of the word "banking" does not prevent a finding of confusing similarity with the Complainant's trademark BW-BANK, which is recognizable in the disputed domain name. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of an additional term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is well accepted by UDRP panels that a generic Top-Level-Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent

has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case the Complainant has established a *prima facie* case that it holds rights over the trademark BW-BANK and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services. Rather, according to the un rebutted evidence put forward by the Complainant, at the date of the Complaint the disputed domain name was used to host a parked page comprising pay-per-click (“PPC”) links to competing services. According to section 2.9 of the [WIPO Overview 3.0](#). “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.” In this case, the PPC links are related to the Complainant’s trademark BW-BANK and generate search results with competing services to those offered by the Complainant. In this Panel’s view, such use does not confer rights or legitimate interests to the Respondent.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant’s contentions.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

The Complainant’s registration and use of the relevant trademarks predate the date at which the Respondent registered the disputed domain name. Given the distinctiveness of the Complainant’s trademark, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trademarks, and to target those trademarks.

The disputed domain name is used by the Respondent to direct to a website displaying PPC advertisements for the Complainant’s related services. Given the confusing similarity between the BW-BANK trademark and the disputed domain name, Internet users would likely be confused into believing that the Complainant is affiliated with the website to which the disputed domain name resolves. Presumably the Respondent intends to benefit from the confusion created: it is likely that the Respondent earns income when Internet users click on the links in search of BW-BANK services.

In the Panel’s view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

## 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 <banking-bw-bank.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: March 21, 2022