

ADMINISTRATIVE PANEL DECISION

Bitpanda GmbH v. Super Privacy Service LTD c/o Dynadot / Jing Yang
Case No. D2022-2052

1. The Parties

The Complainant is Bitpanda GmbH, Austria, represented by Schönherr Rechtsanwälte GmbH, Austria.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America (“United States”) / Jing Yang, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 8, 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 June 9, 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 June 14, 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 June 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2022. On June 24, 2022, the Center received the Respondent’s request for extension of the Response due date. On June 27, 2022, the Center granted the Respondent the automatic four calendar day extension for Response under paragraph 5(b) of the Rules. The due date for Response was extended to July 10, 2022. The Response was filed with the Center on July 11, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on July 19, 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 is a corporation registered in Austria. It is a provider of digital assets services, operating a trading platform known as BITPANDA for assets including cryptocurrency, precious metals, equities, and exchange traded funds.

The Complainant is the owner of various registrations for the trademark BITPANDA, including for example:

- European Union Trade Mark registration number 017496894 for the word mark BITPANDA, registered on March 12, 2018, in International Classes 09, 36, and 42
- United States trademark registration number 5658447 for the word mark BITPANDA, registered on January 22, 2019, in International Classes 09, 36, and 42.

The Complainant also provides evidence of figurative trademarks incorporating the “Bitpanda” name.

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

The disputed domain name does not appear to have resolved to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant submits that its trademark BITPANDA is a fictional and highly distinctive term.

The Complainant states that it has traded under the name BITPANDA since 2016 and that it is currently one of the fastest growing fintech companies in Europe, having 900 team members and three million users. It claims a recent company valuation of over USD 4 billion. The Complainant provides information concerning its business history and profile, including press coverage and evidence of industry and media awards, including “Crypto Platform of the Year” in 2021. The Complainant claims that, as a result of these matters, its BITPANDA trademark has become famous, not only in Europe but also in the United States. The Complainant cites the decision in *Bitpanda GmbH v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-3092](#), in which the panel found the Complainant’s BITPANDA trademark to be “a distinctive and well known mark”.

The Complainant contends that the disputed domain name is confusingly similar to its BITPANDA trademark. It submits that the disputed domain name incorporates that trademark in its entirety and that the addition of the term “bank” does not prevent the overall impression of a connection between the disputed domain name and the trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no affiliation with the Respondent and has not licensed or authorized it to use its BITPANDA trademark. The Complainant states that the Respondent has until recently offered the disputed domain name for sale (although it does not provide any evidence of this) and that the Respondent’s use of the disputed domain name does not imply any legitimate interest.

The Complainant submits that the disputed domain name was registered and has been used in bad faith.

The Complainant contends that, in view of the fictional and highly distinctive nature of its BITPANDA trademark, there can be no doubt that the Respondent registered the disputed domain name illegitimately to obtain a commercial gain by capitalizing on the reputation of that trademark.

The Complainant submits that the addition of the term “bank” to the Complainant’s trademark adds to the confusing similarity of the disputed domain name because it refers to financial services, of which the Complainant is a provider.

The Complainant submits that a Google search against the term “bitpanda bank” produces only search results related to the Complainant. It produces a page of search results in support of that contention.

The Complainant submits that, despite the Respondent’s passive holding of the disputed domain name, this is a case in which: “it is not possible to conceive any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate” (see e.g., *Bruichladdich Distillery Company Limited v. Johannes Iga Schneemann*, WIPO Case No. [D2014-0168](#)).

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent submits that the term “bank” as included in the disputed domain name is not merely descriptive, but is the “head noun” of the disputed domain name, which is modified by the other terms which it contains. It states that the Complainant is not a bank, is not operated as a bank, does not have a banking licence, and that “bitpandabank” is not a trademark of the Complainant.

The Respondent states that the term “Panda Bank” has an established meaning, namely “Cash Coin Cartoon Money Saver”, and a long history. It provides a link to a YouTube video headed “Homemade Panda Bank”, which portrays a moving plastic panda feature on top of a money-box. It also provides a link to other YouTube videos, portraying a product described in one such video as “The Fluffy Panda Piggy Bank”, which is stated to have 4.3 million views.

The Respondent denies that the Complainant’s trademark is well known or publicly recognized in the United States, where the Respondent is located. The Respondent states that the leading crypto exchange app in the United States is Coinbase, which has 1.6 million ratings on the Apple Store as opposed to the Complainant’s 11,100 ratings.

The Respondent submits that it has “made preparations to launch a site under the [disputed] domain name prior to Complainant’s dispute.” The Respondent does not provide any evidence of such preparations, but says that these are linked to an eBay store selling antiques which it has operated since 2013. It exhibits evidence of an eBay store named “AntiquesKoreaChina” offering antique coins for sale. Under “About Us”, the relevant eBay page states “A bit of Panda Bank. Antique coins from China, Korea and Europe.” The Respondent exhibits further evidence claiming sales in excess of USD 6,000 from the eBay store.

The Respondent submits that the panda is a species of bear endemic to China. It states that 69% of its eBay sales are of Chinese coins and it uses the term “panda bank” for that reason. It submits that, because it offers antique coins emanating mainly from China, “[t]he buyer is buying ‘a bit of Panda Bank’” as per its eBay shop slogan referred to above. It further states that “[w]hen the abbreviation rules apply to the phrase ‘a bit of Panda Bank’, the phrase becomes ‘bit panda bank’.”

The Respondent submits that the Complainant has no business selling antique Chinese coins, and that the Respondent has rights or legitimate interests in respect of the disputed domain name for the reasons set out above.

The Respondent denies having registered or used the disputed domain name in bad faith. It repeats that it made preparations to launch a legitimate website under the disputed domain name before learning of the

present dispute and states that it has invested a great deal of money in this venture. The Respondent denies that the disputed domain name is for sale or that it has in any way disrupted the business of the Complainant, which does not sell antique Chinese coins.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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

The Complainant has established that it is the owner of registered trademark rights in the mark BITPANDA. The disputed domain name wholly incorporates that trademark, together with the dictionary term “bank” which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

It is the Respondent’s case that it operates an eBay store selling antique coins. It claims that because the majority of these coins come from China, which is associated with the panda, it has adopted the slogan “a bit of Panda Bank” for use in conjunction with its eBay store. It further claims that the term “bit panda bank” is an abbreviation of this slogan, which it registered in the form of the disputed domain name for the purpose of a website to be used in conjunction with its eBay store.

Apart from the fact that the Respondent has produced no evidence of any preparations to launch a website, the Panel finds its explanation for the registration of the disputed domain name to be ludicrous. Indeed, for the Respondent to offer an explanation that is so evidently contrived and lacking in credibility merely supports the Complainant’s submissions that the Respondent has acted in bad faith in this case.

The Panel finds the Complainant’s BITPANDA trademark to constitute a distinctive, coined term which is widely recognized by the public in connection with cryptocurrency and related services. The Panel wholly rejects the Respondent’s explanation for its registration of the disputed domain name and infers in the circumstances that the Respondent registered the disputed domain name in the knowledge of the Complainant’s trademark and with the intention of targeting that trademark for the purpose of commercial gain.

In the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the disputed domain name to be misleading, as inevitably suggesting to Internet users that it is owned or operated by, or otherwise commercially affiliated with, the Complainant. The Respondent has advanced no credible reason for its registration and use of the disputed domain name and the Panel accepts the Complainant’s submission that it is difficult to envisage any legitimate use that the Respondent (or indeed any other party without the Complainant’s authorization) could make of the disputed domain name.

While it is unclear whether the Respondent hoped to sell the disputed domain name to the Complainant, or to use it misleadingly to attract Internet users to some forthcoming website, the Panel finds that the Respondent registered and has used the disputed domain name with the intention of taking unfair advantage of the valuable commercial goodwill attaching to the Complainant's BITPANDA trademark. The Panel therefore finds that the disputed domain name has been registered and is being 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, <bitpandabank.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: July 28, 2022