

ADMINISTRATIVE PANEL DECISION

Banque et Caisse D'épargne De L'état, Luxembourg v. Met Kol
Case No. D2023-0666

1. The Parties

The Complainant is Banque et Caisse D'épargne De L'état, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

The Respondent is Met Kol, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <lu-bcee.buzz> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 14, 2023. On February 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2023, 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 (Withheld for Privacy Purposes efh) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 2023, 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 17, 2023.

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 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on March 16, 2023. 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 longstanding bank based in Luxembourg which operates internationally in the financial services sector under the mark BCEE. It owns various trade mark registrations for its BCEE mark in European countries including European Union trade mark registration No. 009110537 for BCEE which was filed on May 17, 2010, and registered on November 2, 2010.

The disputed domain name was registered on January 21, 2023, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name wholly incorporates the Complainant's BCEE trade mark and that the additional element "-lu" is not distinctive of the Complainant's goods or services and will commonly be understood by the public as being an abbreviation for Luxembourg. The Complainant further submits that the generic Top-Level Domain ("gTLD") ".buzz" is irrelevant to the comparison for the purposes of this element of the Policy. Accordingly, says the Complainant, the disputed domain name is confusingly similar to its registered trade mark rights.

The Complainant asserts that the Respondent is not affiliated with Complainant in any way nor has he been authorized by Complainant to use and register its trade marks, or to seek registration of any domain name incorporating its trade mark. Furthermore, says the Complainant, the Respondent has no prior rights or legitimate interest in the disputed domain name.

Further, says the Complainant, the disputed domain name is almost identical to the Complainant's trade marks such that the Respondent cannot reasonably pretend that it was intending to develop legitimate activity through the disputed domain name. Finally, it notes that its trade mark searches show that the Respondent has no trade mark rights anywhere in the world for the sign "bcee".

The Complainant says that it is implausible that the Respondent could have been unaware of its trade marks when it registered the disputed domain name, noting that the trade mark "BCEE" can easily be found by the performance of a simple Google search demonstrating that all the first results relate to the Complainant's goods and services. It says that the term "BCEE" is generally known by the public in Luxembourg as being the acronym of the Luxembourgish Savings Bank being "Banque et Caisse d'Epargne de l'Etat, Luxembourg" which is fully owned by the government of Luxembourg and has operated since 1856. The Complainant further says that the "BCEE" of Luxembourg is well-known by the public worldwide, being ranked among the 10 safest banks in the world in 2019. It asserts that as the Complainant is publicly known at an international level, the fact that the Respondent registered a domain name which is identical and highly similar to the Complainant's trade mark registrations cannot be pure chance, but constitutes registration in bad faith.

As far as bad faith is concerned the Complainant asserts that paragraph 4(b)(iv) of the Policy applies and the fact that the Respondent is using the identical sign "BCEE" to the Complainant's trade mark registrations leads strongly to the conclusion that he will potentially use it for phishing. The Complainant notes that in *Archer-Daniels-Midland Company v. Chamiris Mantrana*, WIPO Case No. [D2013-0257](#), citing the case *Halifax plc v. Sontaja Sunducl*, WIPO Case No. [D2004-0237](#), it was stated that "the potential for 'phishing' and obtaining information by deception, is not just evidence of bad faith, but possibly suggestive of criminal activity".

Furthermore, says the Complainant, it is likely that Respondent registered the disputed domain name to prevent the Complainant from using its trade mark in the disputed domain name or in order to sell it to the highest bidder. This, says the Complainant, also amounts to use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns European Union trade mark registration No. 009110537 for BCEE which was filed on May 17, 2010 and registered on November 2, 2010. The disputed domain name wholly incorporates the Complainant's BCEE trade mark and is therefore confusingly similar to it. The addition of "-lu", which is commonly understood by the public as being an abbreviation for Luxembourg, does not prevent a finding of confusing similarity. As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trade mark rights and that the Complaint succeeds under this element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that the Respondent is not affiliated with Complainant in any way, nor has he been authorised by the Complainant to use and register its trade marks, or to seek registration of any domain name incorporating the Complainant's trade mark. The Complainant has also asserted that the Respondent has no prior rights or legitimate interests in the disputed domain name on the basis that its trade mark searches show that the Respondent has no trade mark rights anywhere in the world for the sign "bcee".

The Complainant has further asserted that the disputed domain name is almost identical to the Complainant's trade marks such that the Respondent cannot reasonably pretend that it was intending to develop legitimate activity through the disputed domain name and the Panel notes in this regard that the disputed domain name not only incorporates the Complainant's trade mark but also the abbreviation for "lu" which designates Luxembourg where the Complainant is based.

In these circumstances, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case and the Panel therefore finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered in 2023 many years after the registration of the Complainant's trade mark. It wholly incorporates the Complainant's BCEE trade mark which is distinctive and enjoys a degree of repute in the banking sector and in Luxembourg generally as a consequence of long use there. The disputed domain name also includes the abbreviation "lu" for Luxembourg where the Complainant has operated since 1856 under the name "Banque et Caisse d'Epargne de l'Etat" and it is apparent that its trade mark BCCE is also an acronym for this name. The inclusion of both "BCCE" and "lu" in the disputed domain name is unlikely to be a coincidence and the Panel finds it more likely than not that the Respondent registered the disputed domain name with knowledge of the Complainant's trade mark and banking business.

The disputed domain name does not resolve to an active website and there is no evidence that it has been used to date. Previous panels have found that factors that have been considered relevant in applying the passive holding doctrine, where there is no apparent use of the disputed domain name, 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.

It is clear that the Complainant's BCCE mark enjoys a considerable degree of repute in Luxembourg and in banking circles internationally. The Respondent has failed to submit a response and there is no evidence of contemplated good faith use in the record. The Respondent registered the disputed domain name through a privacy service based in Iceland and it was not until the Centre sought verification of the real owner's name from the Registrar that this became apparent. Finally, it is entirely implausible that the Respondent based in the United States would, without the authority of the Complainant, seek to use the disputed domain name incorporating the distinctive BCCE mark as well as the "lu" abbreviation for Luxembourg for *bona fide* purposes. As a consequence, the Panel finds that the disputed domain name has fulfilled the criteria noted in section 3.3 of the [WIPO Overview 3.0](#), and that the disputed domain name has been passively held in bad faith.

Accordingly, the Panel finds that the disputed domain name has been both registered and used in bad faith and that the Complaint also succeeds under this 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, <lu-bcee.buzz> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: March 30, 2023