

## **ADMINISTRATIVE PANEL DECISION**

Banque Palatine v. Karim Lahcen  
Case No. D2023-1007

### **1. The Parties**

The Complainant is Banque Palatine, France, represented by DBK Law Firm, France.

The Respondent is Karim Lahcen, France.

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

The disputed domain name <banqueprivleepalatine.com> 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 March 7, 2023. On March 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 March 9, 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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 4, 2023.

The Center appointed Fabrice Bircker as the sole panelist in this matter on April 18, 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 French bank founded in 1780 and specialized in small and medium-sized companies and in asset management.

Its activities are notably protected through the following trademarks:

- PALATINE, French trademark registration No. 3314051, registered on September 22, 2004, duly renewed since then, and designating services of classes 35 and 36;
- PALATINE, European Union trademark registration No. 4353223, filed on April 22, 2005, registered on July 31, 2006, duly renewed since then, and designating products and services of classes 9, 16, 35, 36, 38, 41, 42.

The Complainant has also an online presence through the <palatine.fr> domain name which was registered on October 13, 2004, and which resolves to its official website.

Nothing is known about the Respondent except that, according to the information provided by the Registrar, it is located in France.

The disputed domain name, <banqueprivleepalatine.com>, was registered on February 26, 2023, and resolves to an inactive webpage.

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

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

The Complainant requests the transfer of the disputed domain name, and its arguments can be summarized as follows:

##### **Identical or Confusingly Similar**

The Complainant contends that the disputed domain name is confusingly similar to its PALATINE trademark because it incorporates said trademark in its entirety and the latter remains recognizable within it.

##### **Rights or Legitimate Interests**

The Complainant argues that it has never authorized the Respondent to use its trademark, included as a domain name.

The Complainant adds that because the Respondent is anonymous, and the PALATINE trademark is well-known in France and through the world, the disputed domain name has been registered to confuse or deceive Internet users.

Besides, the Complainant puts forward that the Respondent is not using the disputed domain name and that the passive holding of a domain name does not constitute a legitimate use of same.

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

The Complainant contends that the disputed domain name has been registered in bad faith because the PALATINE prior trademark has a reputation on the market, what makes more than likely that the Respondent knew said trademark at the time of the registration of the disputed domain name.

The Complainant also considers that the Respondent's bad faith can be found on the ground of the passive holding doctrine.

Moreover, the Complainant argues that the concealment of the Respondent's identity on the Whois database and the provision of inaccurate contact details to the Registrar are further evidence of the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, for obtaining the transfer of the disputed domain name, the Complainant must establish each of the following three elements:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 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.

Besides, paragraph 15(a) of the Rules provides that "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraphs 10(b) and 10(d) of the Rules also provide that "[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "[t]he Panel shall determine the admissibility, relevance, materiality, and weight of the evidence".

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Taking the foregoing provisions into consideration the Panel finds as follows.

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

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to its trademark.

The Panel finds that the Complainant is the owner of trademark registrations for PALATINE, such as those detailed in section 4 above.

Besides, there is no difficulty in finding that the disputed domain name, <banqueprivleepalatine.com>, is confusingly similar to the PALATINE trademark.

Indeed, the disputed domain name identically reproduces the Complainant's trademark, and it is of constant practice among the UDRP panels that:

- the addition of other terms does not prevent a finding of confusing similarity under the first element when the complainant's trademark remains clearly recognizable (see [WIPO Overview 3.0](#), section 1.8), which is the case here, precisely because the Complainant's trademark is reproduced in its entirety and because the elements "banque" and "privee" are terms which do not prevent the trademark from being recognizable within the disputed domain name, and
- generic Top-Level Domains ("gTLDs") (.com) may be ignored for the purpose of assessing the confusing similarity, because they only play a technical function.

Consequently, the Panel concludes that the requirements of paragraph 4(a)(i) of the Policy are satisfied.

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

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant contends that it has not given its consent for the Respondent to use its PALATINE trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Furthermore, the disputed domain name is not used (it resolves to an inactive website) and nothing in the case file suggests that the Respondent has made preparations to use it for legitimate purposes.

In view of all the above, the Panel finds 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 burden of production now shifts to the Respondent to show that it does have some rights or legitimate interests.

The Respondent, which has not replied to the Complainant's contentions, has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name, and therefore that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and is using the disputed domain name in bad faith.

In the present case, the Panel finds that:

- the PALATINE trademark registrations predate the registration of the disputed domain name by almost twenty years, and said trademark has been used for over two centuries,
- the PALATINE trademark is intrinsically distinctive,
- it has already been decided that the PALATINE trademark has a reputation and a goodwill (see *Banque Palatine v. Ivan Popov*, WIPO Case No. [D2021-2635](#)),

- the element “banque privée” (which are the French terms for “private bank” or “private banking”) in the disputed domain name directly refer to the activities of the Complainant, the latter describing itself as a “private bank”,
- according to the information provided by the Registrar, the Respondent is located in France, where the Complainant is particularly active,
- when registering the disputed domain name, the Respondent has provided the Registrar with inaccurate contact details (in that regard the courier service in charge of the delivery of the hard copy of the Complaint was not able to reach the Respondent), and
- the Respondent has not put forward any argument intended to establish his good faith.

In these circumstances, the Panel has no doubt that the Respondent was more than likely well aware of the Complainant’s rights when he registered the disputed domain name.

The fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith use because the present situation clearly falls within the doctrine of passive holding.

Indeed, i) the Complainant’s trademark is intrinsically distinctive and enjoys a reputation, ii) the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use, iii) the disputed domain name exactly reproduces the Complainant’s prior distinctive trademark along with the element “banque privée” (which refers to the Complainant’s activities), and iv) the Respondent has registered the disputed domain name providing the Registrar with obvious inaccurate contact details.

In such a context, any good faith use of said disputed domain name by the Respondent seems implausible (See [WIPO Overview 3.0](#), section 3.3).

Furthermore, in the above-described context, the detention of the disputed domain name in the hands of the Respondent represents an unbearable threat hanging on the head of the Complainant, all the more that the risk of fraud in the banking sector is important.

In conclusion, for all the reasons set out above, the Panel concludes that the disputed domain name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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, <banqueprivleepalatine.com> be transferred to the Complainant.

*/Fabrice Bircker/*

**Fabrice Bircker**

Sole Panelist

Date: May 2, 2023