

ADMINISTRATIVE PANEL DECISION

BPCE v. An joonwoo (Korean : 안준우)

Case No. D2023-4655

1. The Parties

The Complainant is BPCE, France, represented by DBK Law Firm, France.

The Respondent is An joonwoo (Korean : 안준우), Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <bpceinvestbonpage.com> is registered with Gabia, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On November 16, 2023, the Center informed the parties in Korean and English, that the language of the registration agreement for the disputed domain name is Korean. On November 17, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that 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 November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 5, 2024.

The Center appointed Andrew J. Park as the sole panelist in this matter on January 12, 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, BPCE (Banque Populaire Caisse d'Epargne), is a major French banking group formed by the 2009 merger of two major retail banking groups, Groups Caisse d'Epargne and Groups Banque Populaire acting as the central institution responsible for the two banking networks. According to the Complainant, BPCE is France's fourth largest bank, the seventh largest in Europe, and the 19th in the world by total assets. BPCE engages in a full range of banking, financing, and insurance activities working through its different subsidiaries. The Complainant has more than 8,200 branches nationwide under their respective brand names with its 105,000 employees serving nearly 150 million customers. The Complainant is well known in the international market and present in more than 40 countries via its various subsidiaries.

BPCE has been designated as a Significant Institution since the entry into force of the European Banking Supervision in late 2014, and as a consequence, it is directly supervised by the European Central Bank. It is also designated as a Global Systemically Important Bank (G-SIB) by the Financial Stability Board.

The Complainant is the owner of numerous trademarks, including the following:

Jurisdiction	Trademark	Registration Number	Registration Date	Class
European Union Trademark	 BPCE	008375875	January 12, 2010	36
European Union Trademark	BCPE	008375842	January 12, 2010	36
French Trademark	 BPCE	3653852	November 6, 2009	9, 16, 35, 36, 38, 41, and 45
International Trademark	 BPCE	1033662	December 15, 2009	36

BPCE is also the owner of certain domain names, directly and via its subsidiary GCE TECHNOLOGIES, including <bpce.fr> registered in 2008, and <groupebpce.fr>, and <groupebpce.com> registered in 2009. Each of these domain names correspond to an active website, the institutional portal of BPCE.

The disputed domain name <bpceinvestbonpage.com> was registered by the Respondent, An joonwoo on September 12, 2023. It resolved to a website which used to resolve to a login page using the identities of BPCE and Natixis (a bank which is part of the Complainant's network), and that had asked Internet users for their personal information.

The Complainant sent a cease-and-desist letter to the Respondent on October 11, 2023. The Respondent did not respond. However, the Complainant noticed that the Respondent had modified the disputed domain name such that it resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

1. The Complainant, following the filing of the Complaint with the Center, requested that the language of proceeding be in English, providing three main reasons.

(a) Since the Complainant is French, and the Respondent is Korean, English would appear to be the fairest neutral language for filing the complaint.

(b) Filing the complaint in the Korean language would cause undue delay and expense if the Complainant is required to translate the complaint and other documents into Korean.

(c) Republic of Korea where the Respondent lives, has a considerable number of English speakers, thus, it is likely that the Respondent can proceed with the administrative proceeding in English.

2. The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name because:

(a) the disputed domain name is identical or confusingly similar to the Complainant's trademark BPCE in which the Complainant has rights. The Complainant contends that the Complainant is the exclusive owner of the distinctive and well-known BPCE trademarks which are all duly exploited for banking and financial services. The disputed domain name incorporates the Complainant's trademark BPCE as its operative elements and the addition of the term "invest" which is descriptive, directly refers to the Complainant's finance and investment activities, including its corporate and investment banking activities and, thus, emphasizes the likelihood of confusion with the Complainant's trademark. Also, the addition of the generic Top-Level Domain (gTLD) ".com" should not be taken into account when assessing the similarity. Therefore, the Complainant argues that its trademark is clearly recognizable in the disputed domain name which should be considered as confusingly similar to the Complainant's trademark.

(b) the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant claims that the Respondent who has no connection whatsoever with the Complainant, lacks any right or legitimate interest in the disputed domain name because (i) the Respondent has no trademarks or trade names corresponding to the disputed domain name, (ii) the Complainant has never authorized the Respondent to register and/or use any domain name incorporating the Complainant's trademarks, (iii) the Complainant has not granted any license, nor any authorization to use the trademarks, including the disputed domain name, (iv) the Respondent has not been commonly known by the disputed domain name, and (v) moreover, the Respondent's use of the disputed domain name does not qualify as a bona fide offer of goods and services. The Complainant insists that the Respondent is intentionally attempting to use the reputation of the Complainant through a website in a French language offering concurrent banking and financial services as the Complainant, and therefore, it has no rights or legitimate interests in the disputed domain name.

(c) the disputed domain name was registered and is being used in bad faith. First, the Complainant claims that the Respondent registered the disputed domain name in bad faith. The Complainant's registrations of its trademarks predate the registration of the disputed domain name and, thus, the Respondent must have had actual knowledge of the Complainant, its trademarks, and its business activities when it registered the disputed domain name. The Respondent registered the disputed domain name with the aim of taking advantage of the reputation and the goodwill of the Complainant's well-known BPCE trademark and creating a likelihood of confusion between the disputed domain name and the Complainant's trademark, which can be clearly evidenced by the Respondent's infringing and unauthorized use of the BPCE marks throughout the website to which the disputed domain name resolved.

Second, the Complainant also claims that the Respondent is using the disputed domain name in bad faith. Until recently, the Respondent had been operating a website in the French language and that mimics the Complainant's website offering identical banking and financial services. It even reproduced the first page of the Complainant's BPCE official page. Further, the Respondent changed the content of the website following the Complainant's cease-and-desist letter, and such change is considered evidence of bad faith that the Respondent used the Complainant's trademark and the disputed domain name in order to attract Internet users and customers of the Complainant from Republic of Korea to steal their banking information. The Complainant is particularly concerned about this situation because, in the field of banking services, consumer protection and security services are a key issue given the sensitive nature of the data processed.

Lastly, the Complainant states that the Respondent did not respond to the Complainant's cease-and-desist letter which the Complainant strongly believes is further evidence of the Respondent's bad faith in using the

disputed domain name to mislead, confuse, and divert consumers to generate commercial gain and to thereby illegitimately capitalize on the Complainant's name and reputation.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

The Registration Agreement for the disputed domain name is in Korean. Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the proceeding shall be the language of the Registration Agreement, i.e., Korean, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Having considered the circumstances of the case, the Panel decides that English be adopted as the language of the proceeding under paragraphs 10 and 11(a) of the Rules. In coming to this decision, the Panel has taken the following into account:

- 1) The Complaint has been submitted in English and it would cause undue delay and expense if the Complainant were required to translate the Complaint and other documents into Korean;
- 2) The Panel is proficient in both English and Korean, capable of reviewing all the documents and materials in both languages and giving full consideration to the Parties' respective arguments;
- 3) The Respondent chose not to participate in the proceeding even though the Complaint was notified in English and Korean and was informed he could file a Response in Korean; and
- 4) The Complainant and the Respondent use different languages. The Complainant is located in France while the Respondent is from the Republic of Korea. Therefore, English would be a fair language for both Parties.

In light of these circumstances, the Panel concludes that it will (1) accept the Complaint in English and the Respondent's communications in Korean to the extent that such communications exist; (2) consider any relevant materials in English and in Korean; and (3) issue a decision in English.

B. Identical or Confusingly Similar

This element consists of two parts: first, whether the Complainant has rights in a relevant trademark and, second, whether the disputed domain name is identical or confusingly similar to that trademark.

The Panel finds that the Complainant has established registered trademark rights and that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The disputed domain name incorporates the Complainant's trademark BPCE in its entirety together with the addition of the terms "invest", "bon" and "page". The addition of these terms in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. Further, the addition of the gTLD ".com" is a standard registration requirement and as such may be disregarded when assessing confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.11.1 and *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#).

For these reasons, pursuant to the Policy, paragraph 4(a)(i), the Panel finds that the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

C. Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights, including trademark rights, in respect of its registered trademark BPCE, and that it is neither affiliated with, nor has it been licensed or permitted to use the Complainant's trademarks or any domain names incorporating these trademarks.

The Respondent is not making a legitimate, noncommercial fair use of the disputed domain name, and there is no evidence to show any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Further, the Respondent is not commonly known by the disputed domain name prior to the date on which the Respondent registered the disputed domain name. Therefore, it is clear that the Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, the 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 burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating its 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.

Here, the Panel finds that the Complainant has made out a prima facie case.

The Panel finds that the Respondent has no relationship with or authorization from the Complainant to use its trademarks. There is nothing in the record to suggest that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or has been commonly known by the disputed domain name. Also, there is no evidence that the Respondent has the intention to use the disputed domain name in connection with a bona fide offering of goods or services. The Respondent registered the disputed domain name and created a website in French using the disputed domain name. Moreover, the Respondent was not only using the Complainant's trademarks in its website, but it also purportedly offered services that are identical or related to those of the Complainant, all in an effort to confuse Internet users or consumers about the relationship between the Respondent and the Complainant and all without the Complainant's permission or authorization. The Respondent's use of the disputed domain name in this manner is *per se* illegal and the use of disputed domain name to conduct illegal activities can never confer rights or legitimate interests on the Respondent and therefore such use can be considered as evidence that the Respondent has no rights or legitimate interests in the disputed domain name. Further, all of these facts demonstrate that the Respondent never had an intention to use the disputed domain name in connection with a bona fide offering of goods and or services.

This Panel is unable to find any reasonable basis upon which the Respondent could be said to have any rights or legitimate interests in respect of the disputed domain name, and the Respondent has not filed a formal Response.

Accordingly, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is

the owner of the trademark or service mark, or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant claims that the Respondent registered and is using the disputed domain name in bad faith in violation of the Policy, paragraph 4(a)(iii). Specifically, the Complainant insists that the Respondent violated the Policy, paragraph 4(b)(iv) by registering the disputed domain name in order to attempt to attract, for commercial gain, Internet users to the Respondent's website which the disputed domain name resolves to by creating a likelihood of confusion with the Complainant's trademark.

As stated previously, the Respondent did not file any response to the Complaint, failing thereby to rebut the Complainant's allegations of the Respondent's bad faith registration and use of the disputed domain name.

Nevertheless, the Panel still has the responsibility of determining which of the Complainant's assertions are established as facts, and whether the conclusions asserted by the Complainant can be drawn from the established facts (*Harvey Norman Retailing Pty Ltd v. Oxford-University*, WIPO Case No. [D2000-0944](#)).

First, the Panel finds the Respondent intentionally registered the disputed domain name in bad faith. The Respondent registered the disputed domain name, which is confusingly similar to the Complainant's trademark BPCE, while aware of the Complainant's business and its trademarks. The Complainant first registered its trademark in 2009 which predates almost 15 years the Respondent's registration date of the disputed domain name, which clearly shows that the Respondent had knowledge of the Complainant's trademark and its reputation when it registered the disputed domain name and that it tried to show that there was a business relationship between the disputed domain name and the Complainant to benefit from the likelihood of confusion with the Complainant's trademark. The Panel also notes that the added terms to the Complainant's trademark in the disputed domain name refer the Complainant's business activities including finance, investment, and banking.

Secondly, the Panel also finds that the Respondent has been using the disputed domain name in bad faith. Until recently, the website to which the disputed domain name resolved had been offering online customers with financial and banking services, namely services in the same field of business as those provided by the Complainant, and it prominently displayed the Complainant's trademarks, thereby giving the false impression that the website emanates from the Complainant. This further supports the Respondent's registration in bad faith, reinforcing the likelihood of confusion, as Internet users are likely to consider the disputed domain name as in some way endorsed by or connected with the Complainant. In addition, the contents of the website were similar, and in some respects, identical to those of the Complainant's website, all in an effort to create a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the website it resolves to. This can be used in support of bad faith registration and use ([WIPO Overview 3.0](#), section 3.1.4) and therefore, the Panel concludes that the Respondent registered and used the disputed domain name to disrupt the Complainant's business.

In addition, the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

As the conduct described above falls squarely within paragraph 4(b)(iv) of the Policy, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith pursuant to the Policy, paragraph 4(a)(iii).

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 <bpceinvestbonpage.com> be transferred to the Complainant.

/Andrew J. Park/

Andrew J. Park

Sole Panelist

Date: January 26, 2024