

ADMINISTRATIVE PANEL DECISION

BPCE v. Alexey Mikhailov, Alexey IT Place

Case No. D2023-4787

1. The Parties

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

The Respondent is Alexey Mikhailov, Alexey IT Place, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <banquepopulaires.com> (the “Disputed Domain Name”) is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 17, 2023. On November 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 17, 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 (WhoIsSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 24, 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 November 27, 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 December 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Mariia Koval as the sole panelist in this matter on January 9, 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 is a major French banking group, formed in 2009 by the merger of two major retail banking groups, Groupe Caisse d'Épargne and Groupe Banque Populaire. The Complainant is one of the largest banking groups in France and pursues a full range of banking, financing and insurance activities. The Complainant has more than 8,200 branches nationwide with its 105,000 employees serving a total of 36 million customers. Also, the Complainant is wellknown in the international market and is present in more than 40 countries via its various subsidiaries.

The Complainant is the owner of numerous BANQUE POPULAIRE trademark registrations (the "BANQUE POPULAIRE" Trademark") around the world, among which are:

- French Trademark Registration No. 3113485, filed on July 25, 2001, and registered on December 28, 2001, in respect of services in classes 35 and 38;
- French Trademark Registration No. 4605979, filed on December 9, 2019, and registered on April 24, 2020,, in respect of goods and services in classes 9, 35 and 36;
- European Union Trademark Registration No. 018725733, filed on June 29, 2022, and registered on November 12, 2022, in respect of goods and services in classes 9, 35 and 36.

The Complainant has built up a considerable online presence and is operating numerous domain names composed of its BANQUE POPULAIRE Trademark, such as <banque-populaire.com> (registered in 1998), <banquepopulaire.com> (registered in 2001) <banque-populaire.fr> (registered in 2002), <banquepopulaire.info> (registered in 2007).

The Disputed Domain Name was registered on October 27, 2023. As at the date of this Decision and when the Complaint was filed, the Disputed Domain Name resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

In particular, the Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's BANQUE POPULAIRE Trademark. The Disputed Domain Name incorporates the Complainant's BANQUE POPULAIRE Trademark in its entirety with addition of the letter "s".

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Complainant has never authorized the Respondent to register and/or use any domain name incorporating the BANQUE POPULAIRE Trademark;
- the Complainant has not granted any license, nor any authorization to use the BANQUE POPULAIRE Trademark, included as a domain name;

- the Disputed Domain Name was used to lead to an active website offering banking services;
- following notification to IT security services to suspend the Disputed Domain Name, the Disputed Domain Name leads to an inaccessible website which shows that there is no *bona fide* offering of goods or services by the Respondent.

The Complainant further contends that the Respondent has registered and is using the Disputed Domain Name in bad faith. It is unquestionable that the Complainant's BANQUE POPULAIRE Trademark registrations predate the registration of the Disputed Domain Name; and the BANQUE POPULAIRE Trademark is well-known in France and through the world, notably by the financial and banking market consumers. Consequently, the choice of the Disputed Domain Name cannot be a mere coincidence, but on the contrary seems to have been done on purpose to generate a likelihood of confusion with the Disputed Domain Name and the Complainant's BANQUE POPULAIRE Trademark.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Complainant's BANQUE POPULAIRE Trademark is reproduced within the Disputed Domain Name with addition of the letter "s" in the end and the generic Top-Level Domain ".com". The Disputed Domain Name appears to be a typical example of *typosquatting*, i.e. a misspelling of the Complainant's BANQUE POPULAIRE Trademark. According to the [WIPO Overview 3.0](#), section 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel finds that addition of the letter "s" in this case does not prevent the Disputed Domain Name from being confusingly similar to the Complainant's BANQUE POPULAIRE Trademark. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's BANQUE POPULAIRE Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Complainant has not licensed or otherwise authorized the Respondent to use its BANQUE POPULAIRE Trademark or to register the Disputed Domain Name which is confusingly similar to the BANQUE POPULAIRE Trademark.

The composition of the Disputed Domain Name carries a high risk of implied affiliation with the Complainant (see WIPO Overview 3.0, section 2.5.1). The Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the BANQUE POPULAIRE Trademark of the Complainant. As of the date of this Decision the Disputed Domain Name resolves to an inactive website. According to the Complainant, the Disputed Domain Name previously resolved to a website offering banking services, i.e. competing services to the ones offered by the Complainant.

Also, given the *typosquatting* nature of the Disputed Domain Name, the construction of the Disputed Domain Name is likely to mislead or cause confusion, which was likely the main intent of the Respondent when registering the Disputed Domain Name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent.

The Respondent did not file any response to the Complaint and did not participate in this proceeding, respectively, the Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Name.

In view of the foregoing, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered and is using the Disputed Domain Name in bad faith in view of the following.

The registration date of the Disputed Domain Name predates the registration of the Complainant's BANQUE POPULAIRE Trademark by more than 20 years. The Disputed Domain Name incorporates the Complainant's BANQUE POPULAIRE Trademark in whole and, according to the Complainant, previously resolved to the website offering banking services. Such use of the Disputed Domain Name indicates that the Respondent was well aware of the Complainant's business and BANQUE POPULAIRE Trademark when he registered the Disputed Domain Name. The Respondent obviously chose to register the Disputed Domain Name, which is confusingly similar to the Complainant's BANQUE POPULAIRE Trademark, for the purpose of attracting, for commercial gain, the Internet users to its websites by creating a likelihood of confusion with the Complainant's BANQUE POPULAIRE Trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites.

Furthermore, the Disputed Domain Name does not resolve to an active website, it has been established that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Section 3.3 of the [WIPO Overview 3.0](#).

In view of the absence of any evidence to the contrary and that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

Therefore, the Panel finds that the Complainant has established the third 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 <banquepopulaires.com> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: January 23, 2024