

## **ADMINISTRATIVE PANEL DECISION**

**BPCE v. Departement Finance, gestionpriveebpce**  
**Case No. D2024-0486**

### **1. The Parties**

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

The Respondent is Departement Finance, gestionpriveebpce, United States of America.

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

The disputed domain name <gestionpriveebpce.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 2024, 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 (Contact Privacy Inc. Customer 0169909937) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2024 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 28, 2024.

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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on March 28, 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 French banking group in France offering banking, finance and insurance services. It owns many trademark registrations for BPCE worldwide such as the following:

1. European Union Trademark Registration No. 8375842, registered on January 12, 2010;
2. French Trademark Registration No. 3653852, registered on May 29, 2009;

The disputed domain name <gestionpriveebpce.com> was registered on January 16, 2024, and resolves to an inactive website. The Complainant has submitted evidence showing that the disputed domain name has been used to send investment offer emails to the Complainant's potential clients impersonating the Complainant's employee.

#### **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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name consists of the Complainant's trademark with the addition of the terms "gestion privee" and the generic Top-Level Domain ("gTLD") ".com". The terms "gestion privee" do not eliminate confusing similarity but on the contrary, as they relate to the business of the Complainant. The gTLD ".com" can be ignored.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize or license the Respondent to use its trademark. The disputed domain name was used for phishing purposes and the trademark BPCE has no dictionary meaning. There is no bona fide offering of goods or services.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark as it is well-known in its field and the Complainant's trademark was registered prior to the registration of the disputed domain name. The disputed domain name was registered in order to take advantage of the goodwill and reputation of the Complainant's trademark in order to divert Internet traffic and for phishing purposes. Also, the disputed domain name is inactive and has been registered with a mail exchanger record (MX record), which would allow phishing. In fact, an email was sent fraudulently using the identity of an employee of the Complainant. The Respondent has hidden its identity when registering the disputed domain name.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “gestion privee” may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent’s name per the Whois record for the disputed domain name is “Departement Finance, gestionpriveebpce”. However, for the reasons discussed in relation to bad faith below, it is likely that the Respondent adopted this name and registered the disputed domain name in order to benefit from confusion with the Complainant, which cannot give rise to rights or legitimate interests.

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 must have been aware of the Complainant’s trademark as the disputed domain name was registered 15 years after the registration of the Complainant’s trademark and the terms “gestion privee” relate to the Complainant’s business. Additionally, the Respondent contacted a potential customer impersonating the Complainant offering savings plan.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <gestionpriveebpce.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: April 11, 2024