

## **ADMINISTRATIVE PANEL DECISION**

**Banque et Caisse d'Epargne de l'Etat, Luxembourg v. JOEL ALEJANDRO BAEZ, H AYUNTAMIENTO CONSTITUCIONAL EMILIANO ZAPATA**  
Case No. D2024-1680

### **1. The Parties**

The Complainant is Banque et Caisse d'Epargne de l'Etat, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

The Respondent is JOEL ALEJANDRO BAEZ, H AYUNTAMIENTO CONSTITUCIONAL EMILIANO ZAPATA, Mexico.

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

The disputed domain name <bcee-snet.net> is registered with Tucows Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 22, 2024. On April 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 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 April 29, 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 May 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 31, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on June 10, 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 Luxembourgish company incorporated on June 22, 1989, which is internationally active in banking services.

The Complainant has, among other, registered the following trademarks containing the BCEE mark:

- European Union trademark registration number 009110537, registered on November 2, 2010, for goods and services in classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43, and 45;
- Switzerland trademark registration number 615156, registered on May 10, 2011, for goods and services in classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43, and 45;
- United Kingdom trademark registration number UK00909110537, registered on November 2, 2010, for goods and services in classes 9, 16, 25, 35, 36, 38, 39, 41, 42, 43, and 45; and
- United Kingdom trademark registration number UK00003345047, registered on December 28, 2018, for services in class 36.

Further, the Complainant has, among other, registered the following trademarks containing the S-NET mark:

- The Benelux trademark number 936196, filed on April 12, 1999, for services in class 36;
- European Union trademark registration number 009110644, registered on July 1, 2012, for services in classes 35, 36, 38, and 41; and
- The United Kingdom trademark registration number UK00909110644, registered on July 1, 2012, for services in classes 35, 36, 38, and 41.

The Complainant's banking services are known under the trademark BCEE, which is an acronym of the Complainant's name, and the Complainant's banking app is known under the trademark S-NET.

The disputed domain name was registered on February 4, 2024, and 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.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademarks as the disputed domain name reproduces the trademarks BCEE and S-NET precisely and entirely.

Further, the Complainant argues that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Respondent is not affiliated with the Complainant, nor authorized, licensed or permitted to use or register the disputed domain name. Additionally, the Complainant holds that the Respondent has no actual or contemplated bona fide or legitimate use of the disputed domain name.

The Complainant argues that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the Respondent knew or should have known of the Complainant's well-known trademark rights before registering the disputed domain name. The Complainant further argues that it is

likely that the Respondent registered the disputed domain name for phishing purposes as the term “bcee” is known as an acronym for the Luxembourgish Savings Bank (Banque et Caisse d'Epargne de l'Etat, Luxembourg), and the term “s-net” is known as BCEE's banking app that is offered at the Complainant's website. As such, it is likely that the disputed domain name could be used to mislead Internet users to disclose personal banking data on a website that is not related to the Complainant.

## **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 the trademarks BCEE and S-NET for the purpose of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The BCEE trademark is reproduced in its entirety within the disputed domain name. Although the addition of other terms here, “-snet” may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 term “-snet” is confusingly similar to the Complainant's trademark “S-NET.” Therefore, the combination of the Complainant's trademark “BCEE” with the term “-snet” does nothing to prevent or reduce the confusing similarity between the disputed domain name and the Complainant's trademark.

As such, 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 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 disputed domain name that comprises of the Complainant's well-known trademark and a term confusingly similar to the Complainant's well-known trademark S-NET. The Panel finds it unlikely that the Respondent was unaware of the Complainant's trademark registrations, as the Complainant's trademarks are both well-known and predate the registration of the disputed domain name.

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 found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds it likely that the disputed domain name was registered to achieve commercial gain by misleading Internet users into disclosing personal banking data. The disputed domain name comprises both the Complainant's trademark BCEE and the term "-snet," which is confusingly similar to the Complainant's trademark S-NET, used for the Complainant's banking app. This strongly indicates that the Respondent intended to profit through fraudulent activities, which constitutes bad faith.

The Panel therefore concludes that the Complainant has demonstrated that the Respondent both registered and is using the disputed domain name in bad faith. Consequently, the Panel concludes that the Complainant has satisfied the requirements of paragraph 4(b) of 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 <bcee-snet.net> be transferred to the Complainant.

*/Halvor Manshaus/*

**Halvor Manshaus**

Sole Panelist

Date: June 24, 2024