

## **ADMINISTRATIVE PANEL DECISION**

BPCE v. Lionel Baud  
Case No. D2024-2371

### **1. The Parties**

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

The Respondent is Lionel Baud, United States of America.

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

The disputed domain name <bpaura-banquepopulaire-fr.com> is registered with Squarespace Domains II LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 29, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 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 June 13, 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 June 14, 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 June 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 10, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on July 15, 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, is a French joint stock company acting as the central institution responsible for the cooperative banking networks Banques Populaires and Caisses d'Epargne and claims to have 105,000 employees that serve a total of 36 million customers in more than 40 countries via its various subsidiaries.

The Complainant owns numerous trademark registrations for BANQUE POPULAIRE, including the following.

French Trademark Registration No. 3113485 for BANQUE POPULAIRE, registered on July 25, 2001, in classes 36 and 38;

French Trademark Registration No. 4605979 for BANQUE POPULAIRE (Device), registered on December 9, 2019, in classes 9, 35, and 36; and

European Union Trade Mark No. 018725733 for BANQUE POPULAIRE and Device, registered on November 12, 2022, in classes 9, 35, and 36.

The Complainant is also the owner of several domain names, such as <banque-populaire.fr> registered in 2002, <banquepopulaire.fr> registered in 2002, and <banquepopulaire.info> registered in 2007.

The disputed domain name was registered on May 15, 2024, and does not resolve to a webpage with content.

#### 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 its above-mentioned trademarks are well known in France and through the world, particularly by financial and banking consumers, as acknowledged by UDRP panels in other cases such as *BPCE v. Registration Private, Domains By Proxy, LLC of Arizona/ Sophie Gadoud, Shady's corporation*, WIPO Case No. [D2021-2305](#).

The Complainant has never authorized the Respondent to register and/or use any domain name incorporating the Complainant's trademarks.

The term "bpaura" incorporated as a prefix in the disputed domain name is the acronym of "Banque Populaire Auvergne Rhône Alpes", a subsidiary of the Complainant and the suffix "-fr" directly redirects to France. Consequently, the disputed domain name will be understood as a reference to the Banque Populaire Auvergne Rhône Alpes that is located in France.

The Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred 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 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, "bpaura-" and "-fr" 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 generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark BANQUE POPULAIRE mentioned in Section 4 above ("Factual Background") when it registered the disputed domain name on May 15, 2024, many years after the Complainant had registered and used the BANQUE POPULAIRE trademark.

The Respondent when registering the disputed domain name has targeted the Complainant's trademark BANQUE POPULAIRE and added the terms "bpaura-" and "-fr", to further confuse Internet users and lead them to believe that the disputed domain name belongs to or is endorsed by the Complainant, and thereby capitalize on the fame of the Complainant's trademark.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [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 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 <bpaura-banquepopulaire-fr.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: July 24, 2024