

ADMINISTRATIVE PANEL DECISION

BPCE v. charles chapus, celr-caisse-epargne-fr
Case No. D2024-2450

1. The Parties

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

The Respondent is charles chapus, celr-caisse-epargne-fr, United States of America.

2. The Domain Name and Registrar

The disputed domain name <celr-caisse-epargne-fr.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 June 14, 2024. On June 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 17, 2024, 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.

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 June 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on July 30, 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 BPCE, the second-largest banking group in France. BPCE provides a full spectrum of banking, financing, and insurance services through its primary cooperative networks, Banque Populaire and Caisse d'Epargne, along with various subsidiaries. Operating in over 40 countries, the Complainant employs 105,000 people and serves 36 million customers.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- European Union trademark registration No. 000637504, registered on April 8, 1999, for the figurative mark CAISSE D'EPARGNE, in classes 9, 16, 35, 36, 38, 41 and 42; and
- French trademark registration No. 1658134, registered on September 27, 1991, for the figurative mark CAISSE D'EPARGNE, in classes 9, 16, 28, 35-45;

The Complainant is also the owner of the domain names <caisse-epargne.com>, registered in 1998, and <caisse-epargne.fr>, registered in 2009. For more than a decade, these domains have provided access to an active website where the Complainant's customers can manage their bank accounts online.

The aforementioned trademarks and domain names were registered before the disputed domain name, <celr-caisse-epargne-fr.com>, which was registered on April 21, 2024. As of the date of this decision, the disputed domain name resolves to an inactive Registrar's webpage. The Complainant has provided evidence that the disputed domain name was configured with active mail exchange ("MX") records, enabling the Respondent to send emails from the disputed domain name.

The Respondent, according to the disclosed Whois information for the disputed domain names, is located in the United States of America.

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 asserts that the CAISSE D'EPARGNE trademark is well-known.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark, CAISSE D'EPARGNE, as it incorporates the entire trademark. The addition of the descriptive term "celr" (referring to "Caisse d'Epargne Languedoc-Roussillon") and the suffix ".fr" (indicating France) does not change the overall impression that the disputed domain name is associated with the Complainant's trademark, nor does it prevent a likelihood of confusion. In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name since (1) the Complainant has never licensed, contracted, or otherwise permitted the Respondent to apply to register the disputed domain name; (2) the Respondent has no trademarks or trade names corresponding to the Complainant's trademark and disputed domain name.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith for the following reasons: (1) the Complainant's trademarks significantly predate the registration of the disputed domain name, and the Respondent knew about the Complainant's trademark; (2) the

Complainant's CAISSE D'EPARGNE trademark is well-known; (3) the disputed domain name had active MX records, allowing the Respondent to use it for phishing attacks aimed at accessing sensitive user data. The Complainant is particularly concerned due to the critical importance of data security in the banking sector, and (4) the currently inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding.

The Complainant requests 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

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

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 inclusion of additional terms, such as "celr" and the geographical suffix ".fr", may be considered in evaluating 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.

The Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the CAISSE D’EPARGNE trademark or to seek registration of any domain name incorporating the trademark.

The fact that the domain name incorporates the entirety of the Complainant’s trademark along with the abbreviation “celr”, which refers to “Caisse d’Epargne Languedoc-Roussillon”, the regional Caisse d’Epargne entity of the Complainant, cannot be a mere coincidence. The composition of the disputed domain name is such that it carries a risk of implied affiliation with the Complainant and/or endorsement by the trademark owner, which cannot be considered as fair use. [WIPO Overview 3.0](#), section 2.5.1.

According to the Complainant, the Respondent has no trademarks or trade names corresponding to the disputed domain name. The Panel notes that according to Whois details, the Respondent’s organization name is “celr-caisse-epargne-fr”.

According to Section 2.3 of [WIPO Overview 3.0](#), “Insofar as a respondent’s being commonly known by a domain name would give rise to a legitimate interest under the Policy, panels will carefully consider whether a respondent’s claim to be commonly known by the domain name – independent of the domain name – is legitimate. Mere assertions that a respondent is commonly known by the domain name will not suffice; respondents are expected to produce concrete, credible evidence”.

The Panel finds that the Respondent, refraining from filing a Response, has failed to provide the substantial proof required to prove he was commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

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 Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the disputed domain name as a trademark or acquired trademark rights or is commonly known by the disputed domain name. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

Therefore, 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 Complainant's well-known CAISSE D'EPARGNE trademark substantially predates the Respondent's registration of the disputed domain name. Therefore, the Respondent knew or should have known of the Complainant's trademark at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant's widely known trademark by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's awareness of the Complainant and its trademark is evident from the composition of the disputed domain name. It includes the full trademark of the Complainant along with the abbreviation "celr", referring to "Caisse d'Epargne Languedoc-Roussillon", the regional branch of the Complainant. This cannot be merely coincidental.

The Panel also notes that the disputed domain name is inactive and has been set up with MX records, indicating the possibility that the disputed domain name may be used for fraudulent email communication. See *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#); *Altria Group, Inc. and Altria Group Distribution Company v. Emerson Terry*, WIPO Case No. [D2021-0045](#).

Upon reviewing the available evidence, the Panel concludes that the current non-use of the disputed domain name does not preclude a finding of bad faith, as established in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

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 <celr-caisse-epargne-fr.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: August 13, 2024