

ADMINISTRATIVE PANEL DECISION

BPCE v. Name Redacted
Case No. D2024-2820

1. The Parties

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

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <patrimoinebpce.net> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 10, 2024. On July 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 July 12, 2024.

¹ The Respondent appears to have used the name of a Complainant's employee when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent's name from this decision. However, the Panel has attached Annex 1 to this decision with an instruction to the Registrar regarding the transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 July 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 6, 2024.

The Center appointed Fabrice Bircker as the sole panelist in this matter on August 27, 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 company acting as the central institution responsible for the two banking networks Banques Populaires and Caisses d'Epargne.

It is the second largest banking group in France. Besides, with 105,000 employees and 36 million customers, the Complainant is also active in more than 40 countries.

The Complainant's brand is notably protected through the following trademark registrations:

BPCE, French trademark registration No. 3653852 registered on November 6, 2009, duly renewed since then, and designating products and services of classes 9, 16, 35, 36, 38, 41, and 45,

 **BPCE** European Union trademark No. 8375875, registered on January 12, 2010, duly renewed since then, and designating services of class 36.

The Complainant also has an online presence, in particular through the <bpce.fr> and <groupebpce.com> domain names, which were respectively registered on November 27, 2008, and on February 25, 2009, and which redirect to its official website.

The disputed domain name, <patrimoinebpce.net>, was registered on June 26, 2024.

It does not resolve to an active website.

Very little is known about the Respondent, except that:

- based on the information disclosed by the Registrar, he is apparently located in France,
- according to the Complainant, he would have stolen the identity of one of its employees (the Head of one of its subsidiaries).

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 its BPCE trademark, because it reproduces the latter, and the added elements do not prevent it from being recognizable.

Besides, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in substance because:

- the Respondent does not hold any trademark or trade name corresponding to the disputed domain name,
- the Complainant has never authorized the Respondent to register and/or use any domain name incorporating its trademarks.

At last, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- it reproduces the BPCE prior trademark, which is well-known,
- it resolves to an inactive website, which amounts to bad faith use by virtue of the passive holding doctrine,
- the Respondent concealed his identity when registering the disputed domain name and appears to have usurped the identity of a manager of a subsidiary of the Complainant.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, in order to obtain a transfer of the disputed domain name, the Complainant must establish each of the following three elements:

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

Besides, paragraph 15(a) of the Rules provides that "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Paragraphs 10(b) and 10(d) of the Rules also provide that "[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))), section 4.3).

Taking the foregoing provisions into consideration the Panel finds as follows.

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, section 1.7.

Based on the available record (Annex 6 of the Complaint) and on the Panel verifications,² the Panel finds 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.

Indeed, although the addition of other term [here, "patrimoine"] 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 because the BPCE trademark remains recognizable within said disputed domain name. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domain ("gTLD") ".net" in the disputed domain name, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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.

² It is well established that the general powers of a panel as articulated inter alia in paragraphs 10 and 12 of the Rules include, among others, the possibility to undertake limited factual research into matters of public record if the panel considers such information useful to assessing the case merits and reaching a decision. Such limited factual research notably include accessing trademark registration databases (see for instance, [WIPO Overview 3.0](#), section 4.8).

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.

Indeed, the Complainant contends that it has not given its consent to the Respondent to use its BPCE trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Furthermore, the disputed domain name is not used (it resolves to an inactive website) and nothing in the case file suggests that the Respondent has made preparations to use it for legitimate purposes.

At last, the Respondent has not replied to the Complainant's contentions.

As a consequence, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

In the present case, the Panel notes that:

- the disputed domain name reproduces the Complainant's BPCE trademark,
- this trademark predates the registration of the disputed domain name by almost 15 years,
- the BPCE trademark is well-known in France where the Respondent seems to be located (e.g., *BPCE v. WhoisGuard Protected, WhoisGuard, Inc. / Fransis Coarno, Danstic*, WIPO Case No. [D2020-0967](#); *BPCE v. Pierre Agou Michel*, WIPO Case No. [D2020-2361](#); *BPCE v. Emmanuel Asamoah*, WIPO Case No. [D2022-3866](#); or *BPCE v. Seymi Lozano*, WIPO Case No. [D2022-4185](#)),
- the element of the disputed domain name added to "bpce", namely "patrimoine" refers to the fields of finance and banking, and therefore to the Complainant's activities ("patrimoine" is the French word for "assets" or "estate"),
- according to the information provided by the Registrar, the Respondent is located in France, where the Complainant is particularly active on the market (it is in particular the second largest banking group in France),
- when registering the disputed domain name, the Respondent has provided the Registrar with contact details of an employee managing one of the subsidiaries of the Complainant.³
- the Respondent has not put forward any argument intended to establish his good faith.

³ The Panel used his general powers, as referred to in footnote 1 above, to verify the Complainant's allegations of identity theft, and a mere Google search immediately established that the name and forename of the Respondent are identical to those of a manager of a subsidiary of the Complainant.

In view of these elements, the Panel finds that the Respondent registered the disputed domain name with the Complainant's trademark in mind, that is to say in bad faith.

Besides, 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes i) the distinctiveness and reputation of the Complainant's trademark, ii) the composition of the disputed domain name in as far as it necessarily and exclusively refers to the Complainant, iii) the fact that the Respondent registered the disputed domain name both using a privacy protection service and stealing the identity of a third party, iv) the failure of the Respondent to submit a response, and v) the implausibility of any good faith use of the disputed domain name by the Respondent in this context, 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 <patrimoinebpce.net> be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: September 10, 2024