

ADMINISTRATIVE PANEL DECISION

BPCE v. florian bancal
Case No. D2024-2832

1. The Parties

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

The Respondent is florian bancal, France.

2. The Domain Name and Registrar

The disputed domain name <solutionsbpce.com> (“the Disputed Domain Name”) is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2024. On July 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 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 July 15, 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 16, 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 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 Michel Vivant as the sole panelist in this matter on August 9, 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 an important French joint stock company acting as the central institution responsible for the two banking networks *Banques Populaires* and *Caisses d'Epargne*. It pursues a full range of banking, financing and insurance activities and is present in more than 40 countries via various subsidiaries.

The Complainant is the owner of numerous trademarks including, for instance, the following:

- The European Union trademark BPCE registered under number 008375842 on January 12, 2010,
- The French trademark BPCE registered under number 3653852 on November 6, 2009,
- The International trademark (semi-figurative trademark including the word BPCE) registered under number 1033662 on December 15, 2009.

The Complainant is the owner of different domain names as, for instance, <bpce.fr> or <groupebpce.fr>.

The Disputed Domain Name <solutionsbpce.com> has been registered on June 13, 2024. It leads to an inaccessible 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 contains the Complainant's Trademark in its entirety "with the prefix 'solutions', which is descriptive and the extension '.com'". Mentioning different UDRP WIPO decisions, it asserts that "the identical reproduction of the Trademarks in the Domain Name is sufficient to establish confusing similarity" and observes that the additional elements "do not prevent a finding of confusing similarity". Particularly, it mentions the UDRP WIPO case regarding the domain name <bpceii.com> which has already stated that when "the Domain Name incorporates the said trademark of the Complainant in its entirety, this is sufficient to establish confusing similarity" (*BPCE v. Pierre Agou Michel*, WIPO Case No. [D2020-2361](#)). It adds that "the use of the Trademarks in the Litigious Domain Name leads the public to believe that the Domain Name belongs to the Complainant". Consequently, for the Complainant, the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Secondly, the Complainant observes that the Respondent has no Trademarks corresponding to the Disputed Domain Name and that the Complainant has never authorized the Respondent to register and/or use any domain name incorporating the Complainant's Trademarks. It mentions especially the *Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#), in which the panel stated that: "in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated bona fide or legitimate use of the domain name could be claimed by Respondent" (*Guerlain S.A. v. Peikang*, WIPO Case No. [D2000-0055](#)). So, for the Complainant, the Respondent has no rights or legitimate interests to use the Disputed Domain Name.

At least, mentioning different UDRP WIPO cases and observing that the panelists have already recognized the reputation of the BPCE mark in previous decisions, the Complainant puts forward that registration of a well-known trademark as a domain name is a clear indication of bad faith in itself, even without considering other elements. Consequently, it asserts that the choice of the Disputed Domain Name "does not seem to be a mere coincidence, but on the contrary seems to have been done on purpose to generate a likelihood of confusion with the Domain Name and the Trademarks". The Complainant adds that the Disputed Domain Name is not active and asserts that it is a case of reprehensible passive holding. Finally, the Complainant

observes that “the Whols of the Disputed Domain Name is anonymous” and that “the Respondent’s willingness to remain anonymous [...] demonstrates his bad faith”. For the Complainant, the Domain Name has been registered and is being used in bad faith.

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 BPCE 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 (namely “solutions”) 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 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 two kinds of circumstances are identifiable in the present cases.

- Circumstances enumerated in the paragraph 4(b) of the Policy

In the present case, considering the notoriety of the Trademark of the Complainant (which moreover has been recognized by different UDRP WIPO decisions as for instance: *BPCE v. WhoisGuard Protected, WhoisGuard, Inc. / Fransis Coarno, Danstic*, WIPO Case No. [D2020-0967](#); or *BPCE v. Seymi Lozano*, WIPO Case No. [D2022-4185](#)), it is sure that the Respondent cannot argue seriously that he has ignored this Trademark when he has registered the Disputed Domain Name. Therefore, he has knowingly proceeded to the registration which must be qualified as made in bad faith.

Furthermore, the addition of the word “solutions”, which suggests that BPCE can be “source” of solutions, creates a false link with the Trademark BPCE which must be understood as an attempt to generate a likelihood of confusion with the Disputed Domain Name and the Trademark.

- Other circumstances which can be taken into consideration

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.

The choice of anonymity at the registration stage and thereafter the fact that the Disputed Domain Name is inactive are additional pieces of evidence of bad faith at the two stages required by the UDRP.

In this regard, 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 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.

Consequently, even if the Complainant has not expressly distinguished registration and use in bad faith, the Panel finds that the third element of the Policy is established.

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 <solutionsbpce.com> be transferred to the Complainant.

/Michel Vivant/

Michel Vivant

Sole Panelist

Date: August 15, 2024