

## ADMINISTRATIVE PANEL DECISION

BPCE v. Name Redacted

Case No. D2024-2917

### 1. The Parties

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

The Respondent is Name Redacted, Germany. <sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <banquepopulaire-lux.com> is registered with CNOBIN Information Technology Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2024. On July 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 23, 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 23, 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 24, 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”).

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<sup>1</sup>The Respondent appears to have used the name and contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name and organization from the Decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the Respondent’s name and organization. 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 18, 2024. A third party sent an email communication to the Center on August 19, 2024, reporting unauthorized use of its identity and contact details in relation to the disputed domain name in the present proceedings (i.e., possible identity theft) but the Respondent did not submit any response. The Center commenced the panel appointment process on August 21, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on September 2, 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**

It results from the Complainant's undisputed allegations that it is a French joint stock company acting as the central institution responsible for the two banking networks Banques Populaires and Caisses d'Epargne (BPCE) with its head office in Paris. It is the second largest banking group in France and pursues a full range of banking, financing and insurance activities. Its circa 105,000 employees serve a total of circa 36 million customers. It is present in more than 40 countries via its various subsidiaries.

The Complainant is the registered owner of several trademarks consisting and/or containing "BANQUE POPULAIRE", e.g., French trademark registration no. 3113485 BANQUE POPULAIRE (word) registered on December 28, 2001 for services in classes 36 and 38.

In addition, the Complainant uses the domain names <banque-populaire.com>, <banquepopulaire.com>, <banque-populaire.fr>, <banquepopulaire.fr>, and <banquepopulaire.info>, corresponding the Complainant's official website.

The disputed domain name <banquepopulaire-lux.com> was registered on July 11, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a French website mimicking the content of the Complainant's official website, pretending to be related to the activity of the Complainant in Luxembourg. The disputed domain name is now inactive.

#### **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 the Complainant's trademark since it contains its well-known trademark BANQUE POPULAIRE entirely with addition of the suffix "lux" which does not prevent a finding of confusing similarity. On the contrary, "lux" is descriptive and will be understood as a reference to Luxembourg and the clients of the Complainant will think that this website is related to the Complainant's activity in Luxembourg.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never authorized the Respondent to register and/or use any domain name incorporating its trademarks. It has not granted any license, nor any authorization to use the trademarks, included as a domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the trademarks are well-known in France and through the world, notably by the financial and banking market consumers. Consequently, the choice of the disputed domain name is not a mere coincidence, because it is used in order to generate a likelihood of confusion with the Complainant's domain name and trademarks. The website linked to the disputed domain name maintains a high level of confusion with the services of the Complainant because it is a reproduction of the Complainant's website. Therefore, there is no doubt that the Respondent is trying to benefit from the likelihood of confusion with the Complainant's trademarks and domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "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". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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 "lux" and a hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such term and character 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.

Moreover, the Panel notes that the disputed domain name contains the Complainant’s registered trademark and a geographic abbreviation (“lux”). The nature of this disputed domain name carries a risk of implied affiliation: in fact, certain geographic terms (e.g., <trademark-usa.com>, or <trademark.nyc>) are seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#) at section 2.5.1.

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant’s documented allegations that the disputed domain name resolved to a website displaying the Complainant’s trademark and logo, and purportedly offering services identical to those offered by the Complainant. For the Panel, it is therefore evident that the Respondent positively knew of the Complainant’s mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark when it registered 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.

On this regard, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (incorporating the Complainant’s mark plus the addition of a geographical term);
- (ii) the content of the website to which the disputed domain name direct, displaying the Complainant’s trademark, logo, and purportedly offering services identical to those offered by the Complainant;

(iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent.

(iv) the Respondent concealed its identity through a privacy service and used the name and contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name and organization from the Decision.

Furthermore, the fact that the disputed domain name is presently inactive does not prevent a finding of bad faith.

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 <banquepopulaire-lux.com> be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: September 16, 2024