

ADMINISTRATIVE PANEL DECISION

Banque Palatine v. Cecile Ricard
Case No. D2024-3872

1. The Parties

The Complainant is Banque Palatine, France, represented by KALLIOPE Law Firm, France.

The Respondent is Cecile Ricard, France.

2. The Domain Name and Registrar

The disputed domain name <palatine-gestion.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 23, 2024. On September 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 24, 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 September 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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 16, 2024.

The Center appointed Michel Vivant as the sole panelist in this matter on October 23, 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, Banque Palatine, is a very old French bank, registered in its present form in Paris in 1954. It is a subsidiary of the group BPCE, one of the largest banking groups in France, well-known in the international market. The Complainant owns different trademarks as, for instance, the French trademark PALATINE registered under number 3314051 on September 22, 2004, the European Union trademark PALATINE registered under number 004353223 on July 31, 2006, or the International trademark BANQUE PALATINE, L'ART D'ETRE BANQUIER (semi-figurative trademark) registered under number 1066933 on January 12, 2011. The Complainant is also the owner of the domain name <palatine.fr> registered in 2004.

The Respondent is Cecile Ricard.

The disputed domain name is <palatine-gestion.com>, registered on September 4, 2024. It does not resolve to an active 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 incorporates the term "palatine", which is identical to the trademarks PALATINE and so reproduces in their entirety and identically these trademarks. Observing that the term "gestion" has been added to these ones and means nothing else in French than management, it asserts that "it is well established that the addition of other terms to a trademark in a domain name does not prevent a finding of confusing similarity, especially when the relevant trademark is recognizable within the disputed domain name" and gives as an example, among others, a case involving precisely the trademark PALATINE (*Banque Palatine v. Ivan Popov*, WIPO Case No. [D2021-2635](#)). So, the Complainant concludes that "this use of the Trademarks in Litigious Domain Name leads the public to believe that Litigious Domain Name belongs to the Complainant and are an expansion of its services".

Secondly, the Complainant observes that it has not granted any license, nor any authorization to use the trademarks, included as a domain name. It quotes the Guerlain case (*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". It adds that the trademarks PALATINE are well-known and that consequently the disputed domain name is "obviously calculated to confuse or deceive, as it falsely suggests that the Litigious Domain Name is linked to the Complainant". It adds more that the disputed domain name leads to an inaccessible website and that "previous UDRP panels have found that the passive holding of a domain name does not constitute a legitimate use of such domain name that would give rise to a legitimate right or interest in the domain". So, the Complainant concludes that the Respondent has no rights or legitimate interests in the disputed domain name.

At least, highlighting that the trademarks PALATINE are well-known trademarks, the Complainant quotes different WIPO cases for which the registration of a well-known trademark as a domain name cannot be a mere coincidence but is a clear indication of bad faith. Consequently, it asserts that the registration of the disputed domain name has been done in bad faith. The Complainant reminds also that previous UDRP

panels have held that the passive holding of a domain name which incorporates a well-known trademark may infer bad faith in the use of a domain name in appropriate circumstances and that these circumstances (as the degree of distinctiveness or reputation of the complainant's mark; the failure of the respondent to submit a response; or the respondent's concealing its identity) are present in the present case. The Complainant adds that the disputed domain name was registered with a mail exchanger record (MX record) which allows the Respondent to create email address using the disputed domain name for phishing attack. That is evidence of the fraudulent intent of the Respondent. Finally, the Complainant put the stress on the policy of anonymity of the Respondent. The conclusion of the whole foregoing is for the Complainant that "the registration of the litigious domain name has been done 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 PALATINE 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 "gestion") may bear on assessment of the second and third elements, the Panel finds the addition of such term (which means "management" in French) 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 with the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available records, 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.

Furthermore, the Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant, as the term "gestion" (which means "management" in French) directly refers to the Complainant's banking activities. [WIPO Overview 3.0](#), 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.

In the present case, considering the notoriety of the trademark of the Complainant (already implicitly recognized in *Banque Palatine v. Ivan Popov*, WIPO Case No. [D2021-2635](#)), it is sure that the Respondent cannot argue seriously that he 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 "gestion", which means "management" in French, creates a false link with the trademark PALATINE by suggesting the management activity of the Complainant. That must be clearly understood as an attempt to generate a likelihood of confusion with the disputed domain name and the Complainant's trademark.

And that is sufficient to conclude that the registration was made in bad faith. Without having to consider other arguments.

But it is also necessary for the Panel to make a finding regarding the use in bad faith. From this perspective, 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.

Furthermore, the Panel notes that previous UDRP panels inferred, also, a bad faith behavior from the activation of MX-servers by the Respondent, which enable the creation of email addresses for commercial emailing, spamming or phishing purposes (see *Banque Palatine v. Ivan Popov*, aforementioned; also *Robertet SA v. Marie Claude Holler*, WIPO Case No. [D2018-1878](#)).

Consequently, even if the Complainant has specifically targeted in his conclusion the registration in bad faith of the disputed domain name, the Panel finds that the third element – registration and use in bad faith – 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 <palatine-gestion.com> be transferred to the Complainant.

/Michel Vivant/

Michel Vivant

Sole Panelist

Date: November 1, 2024