

ADMINISTRATIVE PANEL DECISION

Banque Palatine v. Ophelie Bichon
Case No. D2024-3920

1. The Parties

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

The Respondent is Ophelie Bichon, France.

2. The Domain Name and Registrar

The disputed domain name <app-palatine.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 25, 2024. On September 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 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 September 27, 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 October 9, 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 31, 2024.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on November 5, 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 French bank established in 1780, specializing in services for small and medium-sized enterprises as well as asset management. The Complainant operates as a fully owned subsidiary of Groupe BPCE, one of France's largest banking groups, renowned internationally and active in over 40 countries through its numerous subsidiaries.

The Complainant owns several trademarks inter alia:

- French trademark PALATINE No. 3314051 filed on September 22, 2004, registered on February 25, 2005, and duly renewed covering services in classes 35 and 36;
- French trademark PALATINE No. 3338990 filed on February 3, 2005, registered on July 15, 2005, and duly renewed, covering goods and services in classes 9, 16, 38, 41, 42, and 45;
- European Union trademark PALATINE No. 004353223 filed on April 22, 2005, registered on July 31, 2006, and duly renewed, covering goods and services in class 9, 16, 35, 36, 38, 41, 42;
- French trademark BANQUE PALATINE No. 3644179 filed on April 15, 2009, registered on September 18, 2009 and duly renewed, covering services in class 35; 36; 38;
- International trademark No.  1066933 registered on January 12, 2011, and duly renewed, covering services in class 35 and 36.

Furthermore, the Complainant is the owner of a domain name, namely:

- "www.palatine.fr" registered in 2004

The disputed domain name <app-palatine.com> was registered on September 5, 2024. Currently, it resolves to a website that is inaccessible. Additionally, Mail Exchanger record ("MX record") have been activated and are being used for fraudulent phishing activities.

Since the Respondent did not participate in the proceeding, nothing is known other than the Registrar-disclosed details identified and the Respondent is therefore in default.

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 argues that the disputed domain name is confusingly similar to its trademarks. Specifically, the disputed domain name includes the "palatine" sign which is identical to the Complainant's PALATINE trademarks. Moreover, the addition of the term "app" short for "application" does not mitigate the likelihood of confusion. On the contrary, this term could imply a connection to an official application of Banque Palatine through which clients might access Complainant's services.

The Complainant also alleges that the Respondent is neither licensee nor has been authorized to use the Complainant's trademarks. The Complainant contends the Respondent has no rights or legitimate interests

as it resolves to an inaccessible website. Consequently, the Respondent has not engaged in any legitimate noncommercial or fair use of the disputed domain name.

Additionally, the Complainant contends that the disputed domain name has been registered in bad faith and is well-known in France and through the world.

Finally, the Complainant asserts that the disputed domain name has been used in bad faith, as evidenced by its direction to an inaccessible website and the activation of an MX record that is being used for phishing attacks.

B. Respondent

The Respondent did not reply to the Complainant's contentions and is therefore in default.

6. Discussion and Findings

Paragraph 15(a) of the Rules directs the Panel as to the principles that the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable".

The Policy provides, at paragraph 4(a), that each of three elements must be made in order for a complaint to prevail:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- 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.

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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the PALATINE trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the "app" term may bear on assessment of the second and third elements it could contribute to creating a likelihood of confusion as the "app" term is merely descriptive and stands for "application", which may refer precisely to Complainant's web application. Consequently, 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.

Finally, the ".com" generic Top-Level Domain ("gTLD") is not to be taken into consideration when examining the identity or similarity between the Complainant's trademarks and the disputed domain name (*Accor v. Noldc Inc*, WIPO Case No. [D2005-0016](#)).

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.

Indeed, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it does not own any rights to the PALATINE trademarks, and the Complainant has never authorized or permitted the Respondent to use the PALATINE trademark or use it to register any domain name consisting of the PALATINE trademark.

Furthermore, the disputed domain name resolves to an inactive page and a MX record is being used for phishing attacks. Indeed, the disputed domain name has been used in order to create a fraudulent email address “[...]@app-palatine.com” for phishing purposes. The email address has been used in order to send investment offerings to potential Complainant’s clients. As a result, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, nor is he making a legitimate noncommercial or fair use of the domain name.

Additionally, Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain name. However, by failing to file a formal response, Respondent has missed this opportunity, and the Panel is entitled to draw such inferences from Respondent’s failure as it considers appropriate in accordance with paragraph 14 of the Rules.

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, given the composition of the domain name, the Panel concludes that the Respondent was likely aware of the Complainant’s trademark rights at the time of registration. Indeed, the Respondent cannot be unaware of the renown of Banque Palatine, both in France and globally, particularly among clients in the financial and banking sectors. Prior UDRP panels have indeed confirmed that the PALATINE trademark is well-known (see *Banque Palatine v. ENP Multimedia & Art Production, ENP Multimedia & Art Production Ltd*, WIPO Case No. [D2023-2815](#); see *Banque Palatine v. Antoine Forille*, WIPO Case No. [D2024-2404](#)). Such awareness is indicative of bad faith registration as per established UDRP precedents.

By activating the MX record, the Respondent has created an email address using the disputed domain name specifically for phishing attacks. Indeed, the disputed domain name has been used in order to create a fraudulent email address “[...]@app-palatine.com” for phishing purposes. The email address has been used in order to send investment offerings to potential Complainant’s clients. This indicates that the disputed domain name is being used in 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 <app-palatine.com> be transferred to the Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: November 19, 2024