

## **ADMINISTRATIVE PANEL DECISION**

### **BNP PARIBAS v. asghar farhadi**

### **Case No. D2024-3922**

#### **1. The Parties**

The Complainant is BNP PARIBAS, France, represented by Nameshield, France.

The Respondent is asghar farhadi, United States of America (“United States”).

#### **2. The Domain Name and Registrar**

The disputed domain name <bnpparibasforis.com> is registered with CSL Computer Service Langenbach GmbH dba Joker.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 29, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 7, 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 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 29, 2024.

The Center appointed Ahmet Akgüloğlu as the sole panelist in this matter on November 12, 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 international banking group with active business in 65 countries in the world. BNP Paribas Fortis is the Complainant's subsidiary in Belgium.

The Complainant is the owner of several BNP PARIBAS trademarks with the International trademark registration number 728598, registered on February 23, 2000, International trademark registration number 745220, registered on September 18, 2000, and International trademark registration number 876031, registered on November 24, 2005.

The Complainant is also the owner of several domain names including <bnpparibas.com>.

The disputed domain name was registered on August 14, 2024.

As submitted by the Complainant, the disputed domain name resolves to an index page and has been set up with MX records.

#### 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:

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

The Complainant argues that the disputed domain name creates a likelihood of confusion as it is identical to the Complainant's registered BNP PARIBAS trademark as well as registered domain names. The Complainant underlined that the disputed domain name consists of the Complainant's trademark BNP PARIBAS as a whole. Moreover, addition of term "foris" is not sufficient to eliminate the similarity since the term "fortis" is also similar to the Complainant's subsidiary BNP Paribas Fortis and creates a confusion. Lastly, the Complainant asserts that the addition of the generic Top-Level Domain ("gTLD") being ".com" does not have any impact on the overall impression of the dominant portion of the disputed domain names and is therefore irrelevant to determine the confusing similarity between the trademark and the disputed domain name.

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant asserts that in such cases where the Complainant makes out a prima facie case that the Respondent does have legitimate interest; the Respondent carries the burden of production to demonstrate such legitimate interests or rights. The Complainant contends that the Respondent is not commonly known by the disputed domain name. Further the Complainant underlined that the Respondent is not affiliated with nor authorized by "BNP Paribas" in any way to use the trademark BNP PARIBAS. Additionally, the Complainant points out the disputed domain name resolved to an index page. The Complainant contends that Respondent did not make any use of the disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use it. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

(c) The disputed domain name was registered and is being used in bad faith.

The Complainant refers to "WIPO Case No. [D2017-2167](#), *BNP Paribas v. Ronan Laster*", stating that the BNP PARIBAS trademark has been found to be well-known in previous UDRP panels. The Complainant

also underlines that the disputed domain name is sufficiently similar to its trademark to create a likelihood of confusion and claims that the addition of the term “fortis” cannot be coincidental as it refers to BNP Paribas’ subsidiary BNP Paribas Fortis. In addition, the disputed domain name redirects to an index page which shows that the Respondent did not use the disputed domain name since its registration and does not intend to use it actively. The Complainant also asserted that the disputed domain name has been set up with MX records which can suggest that it may be actively used for email purposes which is an indication of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy requires that the complainant prove each of the following three elements to obtain an order that the disputed domain name should 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;
- (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 proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

### **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 Panel finds the mark is recognizable 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.

The disputed domain name includes the Complainant’s BNP PARIBAS trademark in its entirety. When a domain name wholly incorporates a complainant’s registered mark that is sufficient to establish confusing similarity for purposes of the Policy.

Although the addition of the other terms “foris” 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.

It is accepted by the Panel that the Complainant has not licensed nor authorized the use of its trademark to the Respondent, and the Panel finds no indication that the Respondent is commonly known by the disputed domain name and the Respondent has not submitted any response to the Complaint in terms of any rights or legitimate interests in the disputed domain name or the registered BNP PARIBAS trademarks. The Respondent is not known by the disputed domain name and has not established trademark rights with the term. There is no link connecting the Complainant and the Respondent. Also, the disputed domain name directs to an index page and has not been in active use since registration. In this case, it is clear that the Respondent does not have any rights or legitimate interests in the disputed domain name.

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, the Panel notes it is not possible that the Complainant's well-established and well-known trademarks are not known to the Respondent. Therefore, it cannot be accepted that the selection of the disputed domain name was coincidental. The disputed domain name has in the Panel's view been chosen because of its confusing similarity with a trademark in which the Complainants have rights. (*Carrefour SA, and Atacadão S.A. v. Pedro Freitas*, WIPO Case No. [D2024-3032](#)) Additionally, the use of the term “foris” which refers to the Complainant’s subsidiary alongside with the Complainant’s well-known trademarks show that the Respondent was aware of the Complainant and registered the disputed domain name in bad faith.

Additionally, the Panel notes that the MX records are set up for the disputed domain name, which would enable the Respondent to send emails under the disputed domain name that is confusingly similar to the Complainant’s mark, which is a factor further supporting Panel’s findings on bad faith.

Panels have found that the non-use of a domain name as an index page 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.

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 <bnpparibasforis.com> be transferred to the Complainant.

*/Ahmet Akgülođlu/*

**Ahmet Akgülođlu**

Sole Panelist

Date: November 26, 2024