

ADMINISTRATIVE PANEL DECISION

Banque Palatine v. Marine Brian
Case No. D2024-3923

1. The Parties

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

The Respondent is Marine Brian, France.

2. The Domain Name and Registrar

The disputed domain name <palatine-app.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 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 27, 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 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 24, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on October 29, 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 Banque Palatine, a French bank with origins dating back to 1780, specializing in small and medium-sized companies as well as private banking and asset management. The Complainant is a wholly owned subsidiary of Groupe BPCE, one of France's largest banking groups, active on the international market and present in over 40 countries through its various subsidiaries.

The Complainant and BPCE own registered trade marks for PALATINE, such as:

- the French trade mark PALATINE registered under No. 3314051 on February 25, 2005;
- The European Union Trade Mark PALATINE registered under No. 4353223 on July 31, 2006.

The Complainant is also the owner of the domain name <palatine.fr> registered in 2004 and corresponding to an active website: the Complainant's institutional portal.

The disputed domain name <palatine-app.com> was registered on September 10, 2024, and 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 is identical or confusingly similar to a trade mark or service mark in which it has rights. The disputed domain name incorporates the word "palatine", which is identical to the Complainant's trade marks, followed by the term "app" separated by a hyphen. It is well established that the addition of other terms to a trade mark in a domain name does not prevent the finding of confusing similarity, especially when the relevant trade mark is recognizable within the disputed domain name. The abbreviation "app" means "application", and according to the Complainant, it directly refers to the Complainant's application where the clients of the Complainant can login to access its services. Moreover, the addition of the generic Top-Level Domain ("gTLD") ".com" should not be taken into account to assess the confusing similarity between the disputed domain name and the Complainant's trade mark. Indeed, as a technical requirement of registration, the TLD suffix is generally disregarded in the comparison between a domain name and a trade mark for the purposes of the first element of paragraph 4(a) of the Policy.

Next, the Complainant indicates that it has never authorized the Respondent to register and/or use any domain name incorporating its trade marks. The Complainant has not granted any license, nor any authorization to the Respondent to use its trade marks, including as a domain name. In addition, the Respondent has not made legitimate noncommercial or a fair use of the disputed domain name. Indeed, the disputed domain name leads to an inaccessible website. 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 any rights or legitimate interest in the domain name. Under these circumstances, the Respondent has no rights or legitimate interests to use the disputed domain name.

Finally, the Complainant states that the disputed domain name was registered and is being used in bad faith. The Complainant operates in France and around the world, particularly for consumers in the financial and banking markets. An elementary Internet search by the Respondent would have disclosed the Complainant's websites and the trade marks for PALATINE. The choice of the disputed domain name does not seem to be a mere coincidence, but on the contrary reveals an intention to create a likelihood of confusion with the Complainant's trade marks. Further, the Complainant contends that the Respondent is using the disputed domain name in bad faith under the passive holding doctrine. Finally, the Complainant notes that the Respondent has concealed his/her identify, and has apparently provided false contact details when registering the disputed domain name.

The Complainant requests the transfer of the disputed domain name.

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 trade mark 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 the trade mark PALATINE for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.2.1 and 1.4.

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

Although the addition of other terms, here "-app", 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 trade 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.

Furthermore, the Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [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, the Panel notes that the Complainant owns trade mark rights for PALATINE since 2004 at least, for services in the banking sector. The disputed domain name does not resolve to any active website.

The Complainant, even though it has changed its name since 1780, is one of the oldest French banks still in business. A simple online search for the word "Palatine" brings up the Complainant's company. It is therefore more likely than not that the Respondent, who is based in France, was aware of the Complainant's trade marks and activities when the disputed domain name was registered. And it is well-established in prior UDRP decisions that where the Respondent knew or should have known of a trade mark prior to registering the disputed domain name, such conduct may be evidence of bad faith registration.

From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, the following factors that have been considered relevant in applying the passive holding doctrine include ([WIPO Overview 3.0](#), section 3.3):

- (i) the degree of distinctiveness or reputation of the Complainant's mark,
- (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use,
- (iii) the Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement),
- (iv) the implausibility of any good faith use to which the domain name may be put.

These criteria are met here. Indeed:

The word "Palatine", even if it may convey other meanings, is primarily linked to the Complainant's activities in the circumstances of this case, indeed, the Complainant's PALATINE is widely known, at least in France for banking services.

The Respondent has not provided any response and has not sought to justify the registration of the disputed domain name, nor to argue its good faith, or any argument that might have challenged the Complainant's claims that the disputed domain name was registered and is being used in bad faith.

The Respondent has also provided false or incomplete contact details when registering the disputed domain name (e.g. the courier service was not able to deliver the Written Notice), which is a sign of bad faith.

Moreover, the association of the word PALATINE to the word "app", in the disputed domain name, clearly indicates that the Respondent has targeted the Complainant and may try to conduct illegal activities. As is

widely known, the banking sector is very sensitive to cybersquatting, which serves in particular as a basis for phishing scams.

Thus, the non-use of the disputed domain name does not prevent a finding of bad faith under the circumstances of this case.

Therefore, based on the available record, the Panel finds 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 <palatine-app.com> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: November 11, 2024