Decision for dispute CAC-UDRP-103101

Case number	CAC-UDRP-103101
Time of filing	2020-06-19 10:21:19
Domain names	bnp-parisbas.net

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BNP PARIBAS

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	BNP-parisbas

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademark registrations for the sign BNP PARIBAS (the "BNP PARIBAS trademark"):

- the International trademark BNP PARIBAS with registration No. 728598, registered on 23 February 2000 for services in International Classes 35, 36 and 38;

- the International trademark BNP PARIBAS with registration No. 745220, registered on 18 September 2000 for goods and services in International Classes 9, 35, 36 and 38; and

- the International trademark BNP PARIBAS with registration No. 876031, registered on 24 November 2005 for goods and services in International Classes 9, 35, 36 and 38.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is an international banking group with a presence in 72 countries, and one of the largest banks in the world. With more than 202 624 employees and EUR 7.5 billion in net profit in 2018, the Complainant is a leading bank in the Eurozone and a prominent international banking institution.

The Complainant maintains official websites at the domain names <bnpparibas.com> and <bnpparibas.net>, both registered since 1999, and <bnpparibas.pro>, registered since 2008.

The disputed domain name was registered on 22 November 2018 and is currently inactive. According to the Complainant, it previously resolved to a website displaying the Complainant's trademarks, logo and color scheme, and information regarding its activities.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant states that the disputed domain name is confusingly similar to the BNP PARIBAS trademark, a misspelling of which is incorporated in the disputed domain name. According to the Complainant, the addition of a hyphen and the letter "s" in the disputed domain name is an example of typosquatting and is not sufficient to avoid the likelihood of confusion with the BNP PARIBAS trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, as the Respondent is not affiliated with the Complainant or authorized by the latter to use the BNP PARIBAS trademark. According to the Complainant, the disputed domain name is a typosquatted version of the BNP PARIBAS trademark, and was registered in an attempt to take advantage of Internet users' typographical errors. The Complainant points out that the disputed domain name used to resolve to a website displaying information related to the Complainant's activities and its logo and trademarks, which allegedly shows that the Respondent attempted to pass off the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, in view of the distinctiveness of the BNP PARIBAS trademark and its reputation, the Respondent must have registered and used the disputed domain name with knowledge of the trademark, and further indications for such knowledge are that the disputed domain name is a typosquatted version of the BNP PARIBAS trademark and that the disputed domain name used to resolve to a website displaying information related to the Complainant's activities and its logo and trademarks. On the basis of the above, the Complainant contends that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

RESPONDENT:

The Respondent did not reply to the Complainant's contentions and did not submit any arguments or evidence in its defense.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

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The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

(i) the 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 domain name; and

(iii) the respondent has registered and is using the domain name in bad faith.

In this case, the Provider has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name …"

In this proceeding, the Respondent has not used the opportunity provided to it under the Rules and has not submitted a substantive Response addressing the contentions of the Complainant and the evidence submitted by it.

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the BNP PARIBAS trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the ".net" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence "bnp-parisbas". As pointed out by the Complainant, this sequence represents a mistyping of the BNP PARIBAS trademark with the addition of a hyphen and the letter "s". Even with these additional elements, the BNP PARIBAS trademark remains easily recognized in the disputed domain name, and their addition does not preclude a finding of confusing similarity between the BNP PARIBAS trademark and the disputed domain name.

Taking all the above into account, the Panel finds that the disputed domain name is confusingly similar to the BNP PARIBAS trademark in which the Complainant has rights.

Rights and legitimate interests

While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it is not affiliated with the Complainant or authorized by the latter to use the BNP PARIBAS trademark, and the disputed domain name is a typosquatted version of the BNP PARIBAS trademark, registered in an attempt to take advantage of Internet users' typographical errors. According to the Complainant, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, but for a website displaying information related to the Complainant's activities and its logo and trademarks in an attempt to pass off the Complainant. Thus, 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 submitted a Response and has not alleged that it has rights and legitimate interests in the disputed domain name; it has not disputed the Complainant's allegations and evidence in this proceeding.

The disputed domain name is indeed confusingly similar to the Complainant's BNP PARIBAS trademark and can be regarded as an example of typosquatting. The evidence in the case file shows that it has been used in connection with a website containing information about the Complainant and featuring its logo and trademarks. The Respondent has not provided any plausible explanation why it has chosen and registered the disputed domain name and has then used it for such purpose.

All the above leads the Panel to the conclusion that it is more likely than not that the Respondent, being aware of the goodwill of the Complainant an of the BNP PARIBAS trademark, has registered and used the disputed domain name targeting the same trademark in an attempt for financial gain to confuse Internet users that they are dealing with the Complainant. In the Panel's view, such activity is not legitimate and does not give rise to rights and legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location."

As discussed above, the disputed domain name is confusingly similar to the BNP PARIBAS trademark and is an example of typosquatting. It has been used in connection with a website containing information about the Complainant and featuring its logo and trademarks. The Respondent has not provided any explanation of its actions.

Taking the above into account, the Panel accepts as more likely than not that the Respondent has registered the disputed domain name with knowledge of the Complainant and targeting the BNP PARIBAS trademark in an attempt to extract commercial gain by misleading Internet users that the website at the disputed domain name and its owner are affiliated to the Complainant. In the absence of any authorization by the Complainant, the creation of such appearance cannot be legitimate. This satisfies the Panel that the Complainant has established that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BNP-PARISBAS.NET**: Transferred

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2020-07-28

Publish the Decision