Decision for dispute CAC-UDRP-103281

Case number	CAC-UDRP-103281
Time of filing	2020-09-15 12:44:09
Domain names	bnpparibas-bank.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BNP PARIBAS

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Sunlight Telecoms

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

Among others, the Complainant is the owner of the following International registered trademark:

BNP PARIBAS, word mark, registered on February 23, 2000 under number 728598 in use classes 35, 36 and 38, and designated in respect of 24 territories.

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. It has more than 202,000 employees, has reported EUR 7.5 billion in net profit, stands as a leading bank in the Eurozone, and is prominent internationally.

The Complainant is the owner of various registered trademarks for BNP PARIBAS including international registered trademark no. 728598 for the word mark BNP PARIBAS, registered on February 23, 2000. Prior UDRP panels have

determined that the trademark BNP PARIBAS is well-known.

The Complainant is the registrant of the domain names < bnpparibas.com>, registered on September 2, 1999, and <bnpparibas.net>, registered on December 29, 1999.

The disputed domain name was registered on December 16, 2019 and resolves to a parking page with commercial links.

The disputed name wholly incorporates and is confusingly similar to the Complainant's BNP PARIBAS registered trademark. The addition of the generic term "bank" is insufficient to escape a finding of confusing similarity and worsens the likelihood of confusion, as it refers to the Complainant's activities. The generic top-level domain in the disputed domain name can be disregarded for comparison purposes.

The Respondent is not known by the disputed domain name but as "Sunlight Telecoms". The Respondent has not acquired trademark rights in the disputed domain name. The Respondent is not related in any way to the Complainant's business, is not affiliated or authorized by it and does not carry out any activity for or have any business with the Complainant.

The disputed domain name resolves to a parking page with commercial links. Such use does not constitute a bona fide offering of goods and services, or a legitimate non-commercial or fair use.

The Complainant's BNP PARIBAS trademark is well-known and the Respondent must have known that its registration would be identical or confusingly similar to such mark. The addition of the term "bank" in the disputed domain name cannot be coincidental as it directly refers to the Complainant's activities. It is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in its trademark, thus evidencing bad faith. The use of the disputed domain name for a parking page with commercial links, configured or allowed by the Respondent, evidences the fact that the Respondent has attempted to attract Internet users for commercial gain to its own website, confirming registration and use in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

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

The Panel is satisfied that the second level of the disputed domain name contains the Complainant's BNP PARIBAS registered trademark in its entirety as the first and most dominant element. The absence of a space in the disputed domain name is of no consequence, given that spaces are not permitted in domain names and the Complainant's mark remains

clearly identifiable even without such space. The inclusion of the word “bank”, with a hyphen acting as a separator, also does not avoid a finding of confusing similarity under the Policy and the Complainant’s said mark remains fully recognizable notwithstanding the presence of this element. The generic Top-Level Domain, in this case “.com”, is typically disregarded for the purposes of the comparison exercise.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name based upon its various assertions. The Complainant asserts that the Respondent is not known by the disputed domain name, has not acquired trademark rights therein, is not related in any way to the Complainant’s business, is not affiliated with or authorized by the Complainant, and does not carry out any activity for or have any business with the Complainant. The Complainant also provides a screenshot of the website associated with the disputed domain name which shows that this displays pay-per-click links relating to banking services, in other words, the same line of business as that of the Complainant. The Panel finds that such use does not give rise to rights or legitimate interests under the Policy.

The Respondent has failed to file a Response in this case and accordingly has provided no submissions or evidence which would serve to rebut the Complainant’s prima facie case. Accordingly, the Respondent having failed to rebut the Complainant’s prima facie case, and there being no facts or circumstances on the present record indicating that the Respondent may otherwise have rights or legitimate interests in the disputed domain name, the Panel finds that the Respondent has no such rights or legitimate interests therein.

The Panel accepts the Complainant’s submission that the disputed domain name has been registered and is being used in bad faith. The disputed domain name contains the Complainant’s distinctive registered trademark BNP PARIBAS. Previous panels under the Policy have determined that such mark is well-known (see, for example, BNP Paribas v. Ronan Laster, WIPO Case No. D2017-2167 in which the panel referred to “the high notoriety of the BNP PARIBAS trademarks throughout the world […]”). In these circumstances, it is reasonable to infer that the Respondent had knowledge of the Complainant and of its rights when it registered the disputed domain name. It is likewise reasonable to infer that the Respondent intended to target the Complainant’s rights for its own commercial benefit and has used the disputed domain name to do so, via the publication on the associated website of pay-per-click links focusing on the Complainant’s line of business. It is well-established in UDRP jurisprudence that such use constitutes use in bad faith for the purposes of the Policy, whether the content is generated by the registrant of the disputed domain name or by a third party, such as a registrar. The Respondent remains responsible for the content of said site.

In failing to file any Response, the Respondent has not availed itself of the opportunity to address the Complainant’s contentions or to advance any explanation for the registration and use of the disputed domain name which might have indicated that its actions were in good faith. On the basis of the present record, and in the absence of such a Response, the Panel cannot conceive of any reasonable explanation which might have been tendered by the Respondent regarding its registration or use of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BNPPARIBAS-BANK.COM**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2020-10-13

Publish the Decision