

Decision for dispute CAC-UDRP-105680

Case number CAC-UDRP-105680

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Domain names bnpparibar.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization BNP PARIBAS

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Ricky Gervais

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 owns numerous trademarks BNP PARIBAS®, such as:

- the international trademark BNP PARIBAS® n°728598 registered since 23 February 2020;
- the international trademark BNP PARIBAS® n°745220 registered since 18 September 2000;
- the international trademark BNP PARIBAS® n°876031 registered since 24 November 2005.

FACTUAL BACKGROUND

The Complainant is an international banking group with a presence in 65 countries, and one of the largest banks in the world (its website is www.group.bnpparibas). With 184 000 employees across 64 locations worldwide and €50.4 billion in revenues, the Complainant stands as a leading bank in the Eurozone and a prominent international banking institution.

The disputed domain name <bnpparibar.com> was registered on 24 July 2023. When the Complainant noticed the registration of the disputed domain name, it resolved to a page offering banking services. It has now been suspended.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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).

Indeed, the substitution of the letter "S" by the letter "R" in the trademark BNP PARIBAS® is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and BNP PARIBAS®. This is a clear case of typosquatting, the disputed domain name contains an obvious misspelling of the Complainant's trademark.

Previous panels have found that the slight spelling variations does not prevent a disputed domain name from being confusing similar to the Complainant's trademark. Please see for instance WIPO Case No. D2003-0093, Microsoft Corporation v. X-Obx Designs <xobx.com> ("Typographical error variations and misspellings of trademarked terms have long been found to be confusingly similar.").

Moreover, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the trademark BNP PARIBAS®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

So, the disputed domain name <bnpparibar.com> is confusingly similar to Complainant's trademark BNP PARIBAS®

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Respondent is not known as the disputed domain name in the Whois database, and has not acquired trademarks mark rights on this term. Past Panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

Please see for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Respondent has no rights or legitimate interests in respect of the disputed domain name and that he is not related in any way to the Complainant's business.

The Respondent is not affiliated with the Complainant nor authorized by the Complaint in any way to use the trademark BNP PARIBAS®. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name is a typosquatted version of the trademark BNP PARIBAS®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. See Forum Case No. 1597465, The Hackett Group, Inc. v. Brian HERN / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy ¶ 4(a)(ii).").

The Complainant contends that when it was informed of the registration of the disputed domain name, it resolved to a website promoting banking services which compete with the Complainant's products and activities (the Complainant provided screenshots of the website at the time of its registration). Past panels have held that using a disputed domain name to offer competing products to that of a complainant is not a use indicative of rights or legitimate interests. See for instance Forum Case No. FA 1659965, General Motors LLC v. MIKE LEE ("Past panels have decided that a respondent's use of a domain to sell products and/or services that compete directly with a complainant's business does not constitute a bona fide offering of goods or services pursuant to Policy

¶4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii).”).

The website on the disputed domain name displayed the Complainant’s green and white logo which reinforces the likelihood of confusion with the Complainant. Such use of the domain name is not legitimate.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name <bnpparibar.com>.

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).

Prior UDRP panels have established that the trademark BNP PARIBAS® is well-known. See for instance WIPO Case No. D2017-2167, BNP Paribas v. Ronan Laster (“Then, according to the Panel, the Complainant has shown that the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant’s mark specifically because of the high notoriety of the BNP PARIBAS trademarks throughout the world”).

At the time of the registration, the disputed domain name resolved to a page displaying the Complainant green and white logo.

The Panel agrees that given the distinctiveness of the Complainant’s trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <bnpparibar.com> without actual knowledge of Complainant’s rights in the trademark, which evidences bad faith.

Furthermore, the misspelling of the trademark BNP PARIBAS® was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP panels have seen such actions as evidence of bad faith. See Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines (“In addition, Respondent’s misspelling of Complainant’s MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy ¶ 4(a)(iii).”).

The disputed domain name used to resolve to a website promoting banking services and displaying the Complainant’s logo(as evidenced by printscreen of the disputed domain name) . Such use evidences bad faith. See WIPO Case No. D2021-3255, Fenix International Limited c/o Walters Law Group v. Prc Maru (“As evidence of bad faith, the Respondent’s fraudulently used the same logo as the Complainant’s on its website at the time of registration of the domain name. This is evidence of bad faith. See, e.g., Fenix International Limited v. Private Whois, Knock Knock WHOIS Not There, LLC / Alberto Sainz, WIPO Case No. D2021-0864, wherein the panel noted: “Respondent’s website contains numerous indicia of fraudulent activity, including unauthorized use of Complainant’s device mark and formatting that imitates Complainant’s business in colors, layout and content.”).

By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the respondent’s website or location, as mentioned by Policy, paragraph 4(b) (iv). See Forum Case No. 94864, Southern Exposure v. Southern Exposure, Inc. (“The Respondent is using the domain name to attract Internet users to its website by creating confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Complainant’s website. Policy ¶ 4(b)(iv). The Respondent registered and used the domain name in question to profit from the Complainant’s mark by attracting Internet users to its competing website. This is evidence of bad faith.”). The disputed domain name is currently deactivated, but the Panel does not find any conceivable good faith use of the disputed domain name by the Respondent in the future.

On these bases, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

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

Prior UDRP panels have established that the trademark BNP PARIBAS® is well-known. The disputed domain name is a typosquatted version of the trademark. The disputed domain name is not used for legitimate purposes by the Respondent. At the time of the registration, the disputed domain name used to resolved to a page displaying the Complainant green and white logo. Thus, given the distinctiveness of the Complainant’s trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <bnpparibar.com> without actual knowledge of Complainant’s rights in the trademark, which evidences registration in bad faith.

Furthermore, the misspelling of the trademark BNP PARIBAS® was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith. The disputed domain name used to resolve to a website promoting banking services and displaying the Complainant's logo. Such use evidences bad faith.

By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location, as mentioned by Policy, paragraph 4(b) (iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bnpparibar.com**: Transferred

PANELLISTS

Name	Thomas Hoeren
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DATE OF PANEL DECISION **2023-09-03**

Publish the Decision
