Decision for dispute CAC-UDRP-106199

Case number	CAC-UDRP-106199
Time of filing	2024-01-26 13:24:41
Domain names	bnpparibbas.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BNP PARIBAS

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	bnpparibbas

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®, including:

- the international trademark BNP PARIBAS® n°728598 registered since 2000-02-23;
- the international trademark BNP PARIBAS® n°745220 registered since 2000-09-18;
- the international trademark BNP PARIBAS® n°876031 registered since 2005-11-24.

FACTUAL BACKGROUND

The Complainant, BNP PARIBAS, is one of the largest banks in the world, with a presence in 65 countries.

The Complainant owns numerous BNP PARIBAS® trademarks and a large portfolio of domain names including <bnpparibas.com>, registered since 1999-09-02.

The disputed domain name <bnpparibbas.com> was registered on 2023-01-29. It resolves to an inactive parking page. MX servers are configured.

PARTIES CONTENTIONS

The Complainant Contends that all requirements under the UDRP have been met and requests transfer of the disputed domain name.

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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(3) the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire, FA 157287 (Forum June 26, 2003) (“Because Complainant did not produce clear evidence to support its subjective allegations [. . .] the Panel finds it appropriate to dismiss the Complaint”).

As to the first element, the Complainant has shown that it has rights in the BNP PARIBAS mark and that the mark is very well-known. The Panel finds the disputed domain name <bnpparibbas.com> to be confusingly similar to the Complainant’s trademark BNP PARIBAS because it incorporates the mark in its entirety and merely adds the letter “B”, which does nothing to distinguish the domain name from the mark, together with the inconsequential top-level domain “.com”, which may be ignored. The Complainant has established this element.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii)

of the Policy, i.e.

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name; is not related in any way to its business; and is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant also claims that the disputed domain name is a typosquatted version of the trademark BNP PARIBAS. The disputed domain name resolves to a parking page. The Respondent does not use the disputed domain name, and this confirms that the Respondent has no demonstrable plan to use the disputed domain name.

The Panel notes that the disputed domain name <bnpparibbas.com> was registered by the Respondent on January 25, 2023, long after the Complainant has shown that its BNP PARIBAS mark had become very well-known. It resolves to a parked webpage. These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has established this element.

As to the third element, Paragraph 4(b) of the Policy sets out some circumstances which shall be evidence of the registration and use of a domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy. As noted in the WIPO Jurisprudential Overview 3.0, Section 3.1, those circumstances are not exclusive and a complainant may demonstrate bad faith under paragraph 4(a)(iii) by showing that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant's trademark.

The Panel finds that, given the fame and distinctiveness of the Complainant's trademark and reputation and the typosquatted character of the disputed domain name, it is inconceivable that the Respondent could have registered the disputed domain name <bnpparibbas.com> without actual knowledge of the Complainant's rights in the trademark. This establishes registration in bad faith.

The disputed domain name resolves to an inactive parking page and the Respondent has not demonstrated any activity in respect of the disputed domain name. However, as in WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows, it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. Further, the fact that MX servers are configured suggests that it may be actively used for fraudulent email purposes.

Accordingly, the Panel finds that the Respondent's passive use of the domain name demonstrates registration and use in bad faith. The Complainant has established this element.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bnpparibbas.com**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2024-02-22

Publish the Decision