Decision for dispute CAC-UDRP-100688

Case number	**CAC-UDRP-100688**
Time of filing	**2013-10-17 11:02:02**
Domain names	**credit-agricole-jp.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**CREDIT AGRICOLE SA**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Organization	**EMPARK - 87223444**

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 trademark registrations constituted of or including CREDIT AGRICOLE.

FACTUAL BACKGROUND

The Complainant is the leader in retail banking in France and one of the largest banks in Europe.

The Complainant assists its clients' projects in France and around the world, in all areas of banking and trades associated with it, such as insurance management asset leasing and factoring, consumer credit, corporate and investment.

The Complainant owns several trademark registrations constituted of, or including, CREDIT AGRICOLE. Amongst others, the Complainant owns the International trademark Nos. 1064647 for CREDIT AGRICOLE (word mark), registered on January 4, 2011, in classes 9, 16, 35, 36, 38 and 42; 441714 for CA CRÉDIT AGRICOLE (word and design), registered on October 25, 1978, in classes 16, 35, 36 and 42; and 525634 for CA CRÉDIT AGRICOLE (word and design), registered on July 13, 1988, in classes 16, 35 and 36.

The Complainant is also the owner of domain names containing CREDIT AGRICOLE, including, amongst others, <credit-agricole.biz>, registered on November 7, 2001; <credit-agricole.eu>, registered on March 21, 2006; and <credit-agricole.info>, registered on November 8, 2006.

The disputed domain name <credit-agricole-jp.com> was registered on October 04, 2013 and is currently not used in connection with an active web site.

A cease-and-desist letter was sent by the Complainant's representative to the Respondent, on October 9, 2013, by email, requesting the transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant asserts that its trademark CREDIT AGRICOLE is widely known and highlights that prior panels have confirmed the notoriety of the trademark.

The Complainant states that the disputed domain name is confusingly similar to its trademark since it contains the trademark CREDIT AGRICOLE in its entirety with the addition of the dash "-" , of the two letters "jp" and the gTLD ".com", that does not change the overall impression of the designation as being connected to the trademark CREDIT AGRICOLE.

The Complainant asserts that the Respondent does not have any rights or legitimate interest in the disputed domain name since the Respondent is not affiliated with nor authorized by the Complainant in any way, and does not carry out any activity for, nor has any business with the Complainant. The Complainant also states that the Respondent's lack of rights or legitimate interests in the disputed domain name is highlighted by the fact that the disputed domain name is redirected to a blank page displaying no information and by the absence of a Respondent's reply to the Complainant's cease and desist letter.

It also highlights that a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests and that, once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

With reference to the circumstances evidencing bad faith, the Complainant contends that, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's mark and is using it for the purpose of misleading and diverting Internet traffic.

The Complainant, therefore, concludes that the Respondent has registered and is using the disputed domain name in bad faith.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 that 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

1. The disputed domain name includes the registered trademark CREDIT AGRICOLE of the Complainant in its entirety, with the addition of the non distinctive element “jp” and of two dashes. According to a number of prior decisions under the UDRP, the addition of dashes and of a generic term to a trademark is not sufficient to exclude the confusing similarity. In addition, it should be taken into account the well-established principle that the generic top level domain may be excluded from consideration as being merely a functional component of a domain name.

2. The Complainant has stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent is passively holding the disputed domain name and no evidence has been submitted showing that the Respondent has made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the disputed domain name. In the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3. In light of the prior registration and use of the Complainant’s trademark CREDIT AGRICOLE in connection with the banking and financial services of the Complainant and in view of the well-known character of the Complainant’s trademark, the Panel finds that the Respondent was more likely than not aware of the Complainant’s trademark at the time of the registration of the disputed domain name.
As indicated above, the disputed domain name is not used in connection with an active web site, i.e. is passively held. As established in a number of prior cases, the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only positive action but also passive holding; see the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.
Moreover, since the trademark that constitutes the core of the disputed domain name is related to banking and financial services, the Panel finds that the Respondent could not make any legitimate noncommercial use of the domain name and that, on the balance of probabilities, any active use of the domain name would resolve to an intentional attempt to attract, for commercial gain, Internet users to the Respondent’s web site by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s site.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDIT-AGRICOLE-JP.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2013-11-28

Publish the Decision