Decision for dispute CAC-UDRP-101011

Case number	CAC-UDRP-101011
Time of filing	2015-06-23 13:19:49
Domain names	predica.org

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	PREDICA - PRÉVOYANCE DIALOGUE DU CRÉDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Julian Moreno-1014186403

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has proved to own International trademark registration n. 539261 consisting in the distinctive wording PREDICA registered since May 22, 1989.

The Complainant is also the owner of the following domain names: predica.com (created on March 3, 1999), predica.fr (created on September 13, 2000) and predica.eu (created on June 26, 2006).

FACTUAL BACKGROUND

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

The Complainant states that the disputed domain name <predica.org> is identical to his trademark PREDICA and his domain name <predica.com>.

Indeed, the disputed domain name <predica.org> contains the Complainant’s registered trademark PREDICA in its entirety,

without any adjunction of letters or words.

The Complainant further contends that:

1) the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

2) that the website in relation with the disputed domain name <predica.org> has not been used since its registration. There is no information of demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services.

3) that the Respondent has not responded to the cease-and-desist letter sent to him in order to justify the reason why he registered the disputed domain name

4) that the disputed domain name has been registered and is being used in bad faith

5) that the incorporation of a famous mark into a domain name, coupled with a non used website, may be evidence of bad faith registration and use.

6) that the disputed domain name was registered in order to prevent the owner of the trademark from reflecting this name in a corresponding domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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. Rights (paragraph 4(a)(i)of the Policy)

The Complainant has established to have registered rights to the PREDICA trademark. The disputed domain name is clearly identical to the Complainant's PREDICA trademark save for the ".org" technical requirement. In fact, previous UDRP panels have found that gTLDs, should typically be disregarded for the purpose of establishing whether a disputed domain name is identical or confusingly similar to a trademark. Disregarding the gTLD, ".org", the disputed domain name is identical to the

Complainant's trademark.

Therefore, the Panel finds the disputed domain name to be identical or confusingly similar to the trademark PREDICA in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests (paragraph 4(a)(ii) of the Policy)

The Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services. In addition, the Respondent does not appear to be commonly known by the name "PREDICA" or by a similar name. Finally, the Respondent has not replied to the Complainant's contentions, alleging any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith (paragraph 4(a)(iii) of the Policy)

The Complainant's trademark has been registered and used for decades and thus long predates the disputed domain name's registration, thus in the absence of contrary evidence and on the balance of probability, the Panel finds that the Respondent knew of the Complainant's products and trademarks and deliberately intended to create an association with the Complainant and its business;

Inference of bad faith registration and use of the disputed domain name is also given by the fact that the Respondent never replied to the Complainant's cease and desist letter. Indeed, due to the fact that the Respondent has not responded to, let alone denied, the assertions made by the Complainant in the pre-action communications and in this administrative proceeding, it is reasonable to assume that if the Respondent did have legitimate purposes in registering and using the disputed domain name it would have responded.

Accordingly, the Panel finds on the basis of the evidence presented, that the Respondent has registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PREDICA.ORG**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2015-07-21

Publish the Decision