Decision for dispute CAC-UDRP-101015

Case number	CAC-UDRP-101015
Time of filing	2015-07-08 10:06:50
Domain names	CREDIT-AGRICOLE-PARTICULIERS.COM, CREDIT-AGRICOLE-PARTICULIER.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Brian Bond

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

Complainant states that it is the owner of the "registered and widely known trademark CREDIT AGRICOLE." Complainant has provided as an annex documentation in support thereof, including printouts from the website of WIPO's Madrid International Trademark System for Reg. Nos. 1,064,647 for CREDIT AGRICOLE; 5,25,634 for CREDIT AGRICOLE; and 4,41,714 for CA CREDIT AGRICOLE. In addition, Complainant has cited a number of previous UDRP decisions in which panels have found that Complainant has rights in the CREDIT AGRICOLE trademark, including Crédit Agricole S.A. v. Donghui, WIPO Case No. D2015-0472.

FACTUAL BACKGROUND

Complainant states the following:

Complainant is "the leader in retail banking in France and one of the largest banks in Europe." Complainant is the owner of numerous trademark registrations, as described above, for the CREDIT AGRICOLE trademark.

The Disputed Domain Names contain the CREDIT AGRICOLE trademark "in its entirety"; the dash and additional words in the

Disputed Domain Names are "not sufficient to escape the finding that the domain names are confusingly similar to the Complainant's trademarks and does not change the overall impression of the designation as being connected to the trademark CREDIT AGRICOLE."

The Respondent "is not affiliated with nor authorized by [Complainant] in any way"; and Complainant "does not carry out any activity for, nor has any business with the Respondent."

"[T]he domain name <credit-agricole-particuliers.com> points to commercial links in relation to the Complainant; and the domain name <credit-agricole-particulier.com> points to a directory containing several open Phishing kit targeting various entities (Paypal, Orange, Taxes)."

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Names are 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 Names (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 Names have been registered and are 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.

The Panel notes that, on July 8, 2015, the Registrar informed CAC that the disputed domain names “are tied to a fraudulent order that slipped through our system” and that “all contact info for the domains is invalid.”

PRINCIPAL REASONS FOR THE DECISION

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the CREDIT AGRICOLE trademark. This conclusion is consistent with numerous previous decisions under the Policy, including, most recently, Crédit Agricole S.A. v. Donghui, WIPO Case No. D2015-0472.

As to whether the Disputed Domain Names are identical or confusingly similar to the CREDIT AGRICOLE trademark, the relevant comparison to be made is with the second-level portion of the domain names only (i.e., “credit-agricole-particuliers” and "credit-agricole-particulier"), as it is well-established that the top-level domain (i.e., “.com”) may be disregarded for this purpose. See WIPO Overview 2.0, paragraph 1.2 (“The applicable top-level suffix in the domain name (e.g., ‘.com’) would usually be disregarded under the confusing similarity test (as it is a technical requirement of registration), except in certain cases where the applicable top-level suffix may itself form part of the relevant trademark.”).

This Panel agrees that inclusion of the words “particuliers” and "particulier" in the Disputed Domain Names do not dispel any confusing similarity. The Panel finds that the CREDIT AGRICOLE trademark is “the dominant portion of the domain name,” LEGO Juris A/S v. Domain Tech Enterprises, WIPO Case No. D2011-2286, and the CREDIT AGRICOLE trademark in the Disputed Domain Name represents “the most prominent part of the disputed domain name[] which will attract consumers’ attention.” Kabushiki Kaisha Toshiba dba Toshiba Corporation v. WUFACAI, WIPO Case No. D2006-0768.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Complainant has stated that Respondent "is not affiliated with nor authorized by [Complainant] in any way"; and Complainant "does not carry out any activity for, nor has any business with the Respondent."

Under the UDRP, “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, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.” WIPO Overview 2.0, paragraph 2.1.

Accordingly, as a result of Complainant’s allegations and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has proven the second element of the Policy.

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location. Policy, paragraph 4(b).

In this case, Complainant appears to argue that bad faith exists pursuant to paragraph 4(b)(iii) and 4(b)(iv), given that the Disputed Domain Names are being used in connection with "commercial links in relation to the Complainant" or "phishing" activity. With respect to the competitive links: Numerous panels have found bad faith under similar circumstances. See, e.g., Wal-Mart Stores, Inc. v. Whois Privacy, Inc., WIPO Case No. D2005-0850; Columbia Pictures Industries, Inc. v. North West Enterprise, Inc., WIPO Case No. D2006-0951; and Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service, WIPO Case No. D2011-1753. With respect to the phishing activity: "Phishing schemes generally indicate bad faith use and registration under Policy ¶4(a)(iii)." Scottrade, Inc. v. Private Registration / WhoisGuardService.com, NAF Claim No. 1559238.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDIT-AGRICOLE-PARTICULIERS.COM**: Transferred
2. **CREDIT-AGRICOLE-PARTICULIER.COM**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2015-09-01