Decision for dispute CAC-UDRP-101503

Case number	CAC-UDRP-101503
Time of filing	2017-04-12 10:05:40
Domain names	RG-CA-CREDIT-AGRICOLE-FR.COM, ILL-CA-CREDIT-AGRICOLE-FR.COM

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	delphine dauphin

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other pending or decided legal proceedings relating to the disputed Domain Names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of, amongst others, CA CREDIT AGRICOLE, international trademark registration No. 441714 of October 25, 1978, and CREDIT AGRICOLE, international registration No. 1064647 of January 4, 2011.

FACTUAL BACKGROUND

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

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 worldwide in all areas of banking and trades associated with it: insurance, management asset leasing and factoring, consumer credit, corporate and investment.

The disputed Domain Names <rg-ca-credit-agricole-fr.com> and <ill-ca-credit-agricole-fr.com> (hereinafter the "Domain Name/s") were registered on March 27, 2017.

Since their registration, the Domain Names were used for phishing activities. The Complainant notified the hosting provider of the fraudolent behaviour of the Respondent. The hosting provider has thus suspended the websites attached to the

Domain Names.

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 UDRP 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 UDRP 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 UDRP 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 Domain Name <rg-ca-credit-agricole-fr.com> reproduces the Complainant's trademark CA CREDIT AGRICOLE, preceded by the prefix "RG" and followed by the suffix "-FR", and the gTLD “.com”.

The Domain Name <ill-ca-credit-agricole-fr.com> reproduces the Complainant's trademark CA CREDIT AGRICOLE, preceded by the prefix "ILL" and followed by the suffix "-FR" and the gTLD “.com”.

Both these Domain Names are confusingly similar to the Complainant's trademark CA CREDIT AGRICOLE, because they fully include this trademark preceded by two or three-letter prefixes deprived of distinctive character and by the suffix "-FR", which designates the geographical origin of the Complainant. Furthermore, the gTLD does not add any distinctive character to the Domain Names.

The slight differences added to the Complainant's trademark are insufficient to create a new or different right to the mark, or to diminish confusing similarity.

Therefore, the Panel concludes that the Domain Names are confusingly similar to the Complainant's earlier marks.

2. Rights or legitimate interests in respect of the Domain Names (Paragraph 4(a)(ii)) of the Policy)

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), "while the overall burden of proof rests with the complainant, panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. Therefore 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".

Pursuant to Article 4 (c) of the Policy, "[a]ny of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [the Respondent's] rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

(i) that before any notice to the respondent of the dispute, the respondent's used, or made demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

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

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

The Complainant affirms that the Respondent is not known to the Complainant. The Respondent is not affiliated with the Complainant, nor authorized to use the Complainant's trademarks in any manner whatsoever. The Respondent does not have any business relationship with the Complainant.

The Domain Names redirect to websites displaying a hosting provider parking page bearing the Russian sentence “Сайт заблокирован хостингпровайдером”, which means that "the site is blocked by the hosting provider". According to the Complainant, the websites connected to the Domain Names were used for phishing activities.

The Panel notes that the Complainant has not proved the phishing activities of the Respondent, nor the fact that it notified the hosting provider of the fraudulent behavior of the Respondent. Notwithstanding, the Complainant has submitted a screenshot of the web pages corresponding to the Domain Names showing the wording "The site is blocked by the hosting provider" in Russian. Thus, it is conceivable that the Respondent engaged in some kind of fraudulent activity when using the Domain Names.

For all reasons mentioned above, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the Domain Names. The Respondent could have filed counter-arguments, but failed to do so. Hence the Panel concludes that the Complainant has sufficiently proved the second requirement under the Policy.

3. Bad Faith (paragraph 4(a)(iii) of the Policy)

Under paragraph 4(a)(iii) of the Policy, the Complainant must prove both registration and use of the Domain Names in bad faith.

As far as registration in bad faith is concerned, it is not conceivable that the Respondent was unaware of the existence of the Complainant's trademarks at the time of the registration of the Domain Names. On the contrary, as the Complainant has correctly pointed out, it is reasonable to infer that the Respondent registered the Domain Names with full knowledge of the Complainant's marks.

As established in other UDRP decisions, CREDIT AGRICOLE is a well-known trademark (see, among others, WIPO Cases No. D2010-1683 and No. D2012-0258). Furthermore, the Respondent is French, and France is the country were the Complainant has its seat. Lastly, it is clear from the selection of the Domain Names, that the Respondent has purposely targeted the Complainant's trademarks.

The registration of the Domain Names without authorization, and with full knowledge of the Complainant's earlier trademarks is registration in bad faith.

As far as use in bad faith is concerned, the Complainant has shown that at least the Domain Names lead to web pages displaying the equivalent of the Russian wording: "The site is blocked by the hosting provider" . Despite the Complainant has failed to prove for which activity the websites were effectively used, one may reasonably assume that the websites contained some kind of fraudulent contents, and that for this reason they were blocked. The specific activity for which the Domain Names were effectively used is irrelevant for the purpose of these proceedings, so long as it is an illegitimate/fraudulent activity.

Furthermore, the Panel notes that the Complainant's trademarks CREDIT AGRICOLE and CA CREDIT AGRICOLE are univocally associated with the Complainant. Therefore, any use of these trademarks should be exclusively reserved to the Complainant. It is very important that this exclusive use is well-preserved, and even more so in a field like the one where the Complainant operates, which is very sensitive and may create substantial damages to the Complainant's customers and the Complainant itself.

For all other reasons mentioned above, the Panel concludes that the Domain Names were used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **RG-CA-CREDIT-AGRICOLE-FR.COM**: Transferred
2. **ILL-CA-CREDIT-AGRICOLE-FR.COM**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2017-05-13

Publish the Decision