Decision for dispute CAC-UDRP-101521

Case number	CAC-UDRP-101521
Time of filing	2017-04-28 10:36:31
Domain names	epass-credit-agricole-fr.com, ca-fr-credit-agricole-fr.com, ca-rebond-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 any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks incorporating CREDIT AGRICOLE, of which the following are representative for the purposes of the present proceeding:

CA CREDIT AGRICOLE, stylized, United States Patent and Trademark Office, principal register, registered June 5, 1990, registration number 1599297, class 36;

CREDIT AGRICOLE, international trademark, registered January 4, 2011, registration number 1064647, classes 9, 16, 35, 36, 38, 42.

FACTUAL BACKGROUND

The Complainant, CREDIT AGRICOLE S.A. 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 has more than 52 million of customers over 52 countries, and more than 11 100 banking agencies in the world.

The Complainant owns several trademarks including the distinctive wording CA CREDIT AGRICOLE®, such as the international registration no. 441714 since October 25, 1978, and also the international registration CREDIT AGRICOLE® number 1064647 registered since January 4, 2011.

The Complainant is also the owner of various domain names, including <credit-agricole.com> registered since 1999.

The disputed domain names <epass-credit-agricole-fr.com>, <ca-fr-credit-agricole-fr.com> and <ca-rebond-credit-agricole-fr.com> were registered by the Respondent identified as "Delphine Dauphin" respectively on 5 April 2017, 2 April 2017 and 6 April 2017.

At the time of this decision, the disputed domain names are inactive.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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)

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant is the owner of numerous trademark registrations for the marks CA CREDIT AGRICOLE and CREDIT AGRICOLE. For example, United States trademark registration no. 1599297, with the registration date of June 5, 1990 and United States trademark registration no. 1064647, with the registration date of January 4, 2011.

The disputed domain names reproduce the Complainant's registered trademarks in their entirety with the generic Top-Level Domain ("gTLD") ".com".

The addition of the gTLD suffix ".com" does not have the capacity to distinguish the disputed domain names from the Complainant's registered trademarks and are disregarded when comparing the disputed domain names with the Complaintan's trademarks.

The disputed domain name <epass-credit-agricole-fr.com> differs for its part from the CREDIT AGRICOLE trademark by the addition of the word “EPASS” at the beginning of the domain name and the letters “FR” at the end of the domain name, all the terms being separated by a hyphen.

The disputed domain name <ca-fr-credit-agricole-fr.com> differs for its part from the CA CREDIT AGRICOLE trademark by the addition of the letters "FR" between the CA trademark’s part and the CREDIT AGRICOLE trademark part, and the addition of these same letters “FR” at the end of the domain name, all the terms being separated by an hyphen.

The disputed domain name <ca-rebond-credit-agricole-fr.com> differs for its part from the CA CREDIT AGRICOLE trademark by the addition of the word "REBOND" between the CA trademark’s part and the CREDIT AGRICOLE trademark part, and the addition of these same letters “FR” at the end of the domain name, all the terms being separated by an hyphen.

In the present case, the addition of the terms "EPAS", "FR", "REBOND" does not serve sufficiently to distinguish or differentiate the disputed domain name from the Complainant’s CREDIT AGRICOLE trademarks. It is clear that the most prominent element in the disputed domain name is the term “CREDIT AGRICOLE”.

Moreover, as the letters “F” and “R” refer to the country where the Complainant is established, the words “EPASS” and “REBOND” are generic additions, these additions cannot serve to distinguish the disputed domain names from the Complainant’s trademarks.

Accordingly, the Panel finds for the Complainant under paragraph 4(a)(i) of the Policy.

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

Once the Complainant establishes a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, the burden shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name.

The Complainant has stated that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant also stated that it has not licensed nor allowed the Respondent to use the disputed domain names.

In the present case, the Complainant has demonstrated to the Panel that the Respondent lacks rights or legitimate interests in respect of the disputed domain names and the Respondent had failed to assert any such rights or legitimate interests.

The Panel finds that the Complainant has established a prima facie case in this regard, inter alia, due to the fact that the Complainant has not licensed or otherwise permitted the Respondent to use the CREDIT AGRICOLE trademark, or a variation thereof.

The Respondent had not submitted a response and did not provide any evidence to show any rights or legitimate interests in the disputed domain name that is sufficient to rebut the Complainant’s prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel finds for the Complainant under paragraph 4(a)(ii) of the Policy.

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

The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)

(iii) of the Policy.

The Complainant has submitted evidence, which shows that the Respondent registered the disputed domain names long after the Complainant registered its trademark. According to the evidence filed by the Complainant, the Complainant has owned a registration for the CREDIT AGRICOLE trademark since at least the year 1990. It is suggestive of the Respondent's bad faith in these particular circumstances that the trademark, owned by the Complainant, was registered long before the registration of the disputed domain name.

The Panel notes that the Complainant has established that its CREDIT AGRICOLE trademark has been recognized in prior UDRP cases as well-known in connection with the Complainant's activity.

Paragraph 4(b)(iv) of the Policy provides that it will be evidence of bad faith registration and use by a respondent, if by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the website or online location to which the disputed domain name resolves, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location to which the disputed domain name resolves.

The disputed domain names are identical to the Complainant's trademark.

Previous UDRP panels have found that "[a] likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site." To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the Policy.

Having regard to the evidence, the Panel finds that the disputed domain names were registered and are being used by the Respondent with knowledge of the Complainant and in bad faith. The Panel notes the evidence submitted by the Complainant regarding a previous decision rendered against the Respondent in CAC Case No. 101503 CREDIT AGRICOLE S.A. v. Delphine dauphin. The Respondent's actions therefore constitute bad faith registration and use of the disputed domain names. Further, the disputed domain names are currently inactive which can, in appropriate circumstances, indicate the Respondent's bad faith.

Based on the evidence that was presented to the Panel, including the Complainant's registered trademarks, the use of the Complainant's trademarks in the disputed domain names, the current use of the disputed domain names and the Respondent's failure to answer the Complaint, the Panel finds that the disputed domain names were registered and are being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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. **EPASS-CREDIT-AGRICOLE-FR.COM**: Transferred
2. **CA-FR-CREDIT-AGRICOLE-FR.COM**: Transferred
3. **CA-REBOND-CREDIT-AGRICOLE-FR.COM**: Transferred

PANELLISTS

Name	**Jonathan Agmon**

DATE OF PANEL DECISION 2017-05-30