# Decision for dispute CAC-UDRP-101473

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| Case number | CAC-UDRP-101473 |
| Time of filing | 2017-03-21 09:14:08 |
| Domain names | DIRECT-CREDIT-AGRICOLE.COM |

## Case administrator

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| Name | Aneta Jelenová (Case admin) |

## Complainant

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| Organization | CREDIT AGRICOLE S.A. |

## Complainant representative

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| Organization | Nameshield (Maxime Benoist) |

## Respondent

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| Organization | PROXY PROTECTION LLC |

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Apart from the business name Crédit Agricole, being the company name of the Complainant, that company is also the proprietor of numerous CRÉDIT AGRICOLE trademarks worldwide, such as EUTM (wordmark 006456974) registered since October 23, 2008 and EUTM figurative mark CA CRÉDIT AGRICOLE (005505995) registered since December 20, 2007, International Registration (figurative) CA CRÉDIT AGRICOLE No. 441714 registered since October 25, 1978, International Registration (figurative) CA CRÉDIT AGRICOLE No. 525634 registered since July 31, 1978 and International Registration No. 1064647 (wordmark) CREDIT AGRICOLE registered since January 4, 2011.

FACTUAL BACKGROUND

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

The Complainant states that the disputed domain name is confusingly similar to its trademarks and its domain names associated, since the disputed domain name contains the Complainant’s registered and widely known trademark CREDIT AGRICOLE in its entirety. The Complainant also argues, that Past panels have confirmed the notoriety of the Complainant´s Trademarks, which it proves by citing number of WIPO and CAC past disputed. The Complainant contends that the addition at the beginning of the disputed domain name of the generic word “DIRECT”, separated from the trademark by a hyphen, with

the use of the gTLD “.com”, are not sufficient elements to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Complainant contends that 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 disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. The complainant further states that the Claimant has never licenced nor authorized the Respondent to make any use of the Complainant’s trademark, or apply for registration of the disputed domain name. The Complainant adds that the disputed domain name points to an inactive website, since its registration.

The Complainant claims that given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. The Complainant also contends that the Respondent registered the disputed domain name with the intention of taking advantage of Complainant's trademarks. Ultimately, the Complainant states that the Respondent has registered the disputed domain name in order to prevent the Complainant from reflecting its trademark in a corresponding domain name.

The Complainant contends that (i) the disputed domain name is confusingly similar to the Complainant´s trademarks, (ii)the Respondent does not have any rights or legitimate interest in the disputed domain name and (iii) the disputed domain name has been registered and is being used in bad faith. The Complainant therefore seeks a transfer of the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the Disputed domain name should be transferred or cancelled:

(i) the Disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the Disputed domain name; and

(iii) the Disputed domain name has been registered and is being used in bad faith.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The Panel fully agrees with the Complainant that the Disputed Domain Name is confusingly similar to its trademarks CREDIT AGRICOLE® and its domain names associated.

Also the Panel fully agrees that the disputed domain name contains the Complainant's registered and widely known trademark CREDIT AGRICOLE® in its entirety.

The Panel fully agrees with Complainant that the addition at the beginning of the disputed domain name <DIRECT-CREDIT-AGRICOLE.COM> of the generic word "DIRECT" separated from the trademark by a hyphen, with the use of the gTLD ".com", are not sufficient elements to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks and linked to the Complainant.

The Panel confirms that numerous UDRP decisions have also recognized that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity. (see point 1.8 of the WIPO UDRP Overview 3.0;CAC Case n° 101402 CREDIT AGRICOLE SA v. William Philippe: finding that: "the addition of the term <SMS> is only a minor variation and therefore not sufficient to distinguish the disputed domain names <smscreditagricole.com> and <credit-agricole-sms.net> from the Complainant's trademark CREDIT AGRICOLE; the Complainant's trademark CREDIT AGRICOLE constitutes the dominant component of the disputed domain names.)

The Panel agrees established that gTLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy when comparing disputed domain name and trademark. Please see for instance:

- CAC case n° 101376 CREDIT AGRICOLE SA v. LINA MARIA: finding that: "for all the disputed domain names the suffixes ".info" and ".com" are to be disregarded when making the comparison."

- point 1.11 of the WIPO UDRP Overview 3.0

Finally, the Panel confirms that below UDRP decisions have confirmed the Complainant's rights such as:

- WIPO case no. D2016-1668 Crédit Agricole S.A. v. Ronaldo Kabisa, Ronaldo Mika (<id-credit-agricole-frds.com>, <id-credit-agricole-frsd.com>)

- CAC case no. 101277 Crédit Agricole S.A. v. A Happy Dreamhost Customer (<creditagricole-login.com>)

- CAC case no. 101281 Crédit Agricole S.A. v. JOSEPH Kavanagh ( <rti-creditagricole.com>, <poi-crediagricole.com>, <oen-creditagricole.com>, <lvu-creditagricole.com>, <iuy-creditagricole.com>)

- CAC case no. 101253 Crédit Agricole S.A. v. garofalo giovanni (<ca-credit-agricole.info>)

- CAC case no. 101251 Crédit Agricole SA v. Amine Mansour (<surcredit-agricole.com>)

The Panel holds that the disputed domain name is confusingly similar to the Complainant's trademarks CREDIT AGRICOLE®.

THE RESPONDENT DOES NOT HAVE ANY RIGHTS OR LEGITIMATE INTEREST IN THE DOMAIN NAME(S):

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, 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 Policy (see point 2.1 of the WIPO UDRP Overview 3.0; WIPO case no. D2003-0455 Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Complainant has put forward that the Respondent is not affiliated with nor authorized by CREDIT AGRICOLE S.A. in any way. The Complainant has put forward that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has put forward that the Respondent does not carry out any activity for, nor has any business with the Respondent.

The Complainant has put forward that neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name by the Complainant.

The Complainant has put forward that the disputed domain name points to an inactive website, since its registration on March 9, 2017. The Panel fully agrees that this demonstrates a lack of legitimate interests in respect of the disputed domain name, as has been confirmed in earlier decisions put forward by the Complainant:

WIPO case No. D2000-1164, and NAF case No. FA109697, : the Panel stated that "the respondent cannot simply do nothing and effectively "sit on his rights" for an extended period of time when the respondent might be capable of doing otherwise".

The Panel fully agrees with the Complainant that the Respondent has registered the disputed domain name with the sole aim to prevent it to register it.

The Panel notes that the website is not active, which demonstrates that the Respondent did not make any use of the disputed domain name since its registration. The Panel concludes that this fact confirms that the Respondent has no demonstrable plan to use the disputed domain name.

Therefore the Panel decides that :

- the Respondent has no rights or legitimate interests in the disputed domain name

THE DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel fully agrees that the Complainant's trademark CREDIT AGRICOLE® is widely known, as has been confirmed earlier in the following cases:

- WIPO - D2010-1683 Crédit Agricole S.A. v. Dick Weisz ;
- WIPO - D2012-0258 - Credit Agricole S.A. v. Wang Rongxi ;
- CAC - 100688 - Credit Agricole S.A. v. EMPARK ;
- CAC - 100687 - Credit Agricole S.A. v. Hildegard Gruener ;
- CAC - 100633 - Credit Agricole S.A. v. Credit Agricole Assurance ;

The Panel fully agrees that, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. (see for instance WIPO - D2004-0673 - Ferrari S.p.A v. American Entertainment Group Inc.)

The Complainant also contends that the Respondent registered the disputed domain name with the intention of taking advantage of the Complainant's trademarks.

The Panel fully agrees that the disputed domain name is confusingly similar to the Complainant's trademarks CREDIT AGRICOLE®. The disputed domain name includes the trademark CREDIT AGRICOLE ® in its entirety, with the adjunction of the generic term “DIRECT”.

The term CREDIT AGRICOLE ® is worldwide only known in relation with the Complainant and especially in Europe. A Google search on the expression CREDIT AGRICOLE® displays several results, all of them being related to the Complainant and its banking activity.

Moreover, the Respondent has not demonstrated any activity in respect of the disputed domain name. Indeed, the disputed domain name is inactive since its registration.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use as has been decided in WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen.

Furthermore, the past Panel stated that the Complainant's trademark “has a long history, a strong reputation, is highly distinctive, particularly in countries where the primary language is not French, and is widely known”. Please see: CAC case 101281 CREDIT AGRICOLE S.A. v. JOSEPH Kavanagh.

The Panel fully agrees that the Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting its trademark in a corresponding domain name.

The Panel thus decides that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

## PANELLISTS

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| Name | **Mr. E.J.V.T. van den Broek** |

DATE OF PANEL DECISION 2017-06-20

Publish the Decision