Decision for dispute CAC-UDRP-101545

Case number	CAC-UDRP-101545
Time of filing	2017-05-19 08:49:33
Domain names	HTTPS-C5-CREDIT-AGRICOLE.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	ROY M OISHI

OTHER LEGAL PROCEEDINGS

The Panel is not aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

According to the evidence provided, Complainant is the owner of certain trademark registrations in several jurisdictions as follows:

CREDIT AGRICOLE: International Trademark Reg. No. 1064647, reg. date January 4, 2011
CREDIT AGRICOLE: International Trademark Reg. No. 441714, reg. date October 25, 1978
CA CRÉDIT AGRICOLE: European Community Trademark Reg. No. 005505995, reg. date December 20, 2007
CREDIT AGRICOLE: European Community Trademark Reg. No. 006456974, reg. date November 11, 2008
CA CRÉDIT AGRICOLE: United States of America Trademark Reg. No. 1599297, reg. date June 5, 1990

FACTUAL BACKGROUND

The Complainant states that it is the leader in retail banking in France and one of the largest banks in Europe.

The Complainant is the owner of the trademarks CREDIT AGRICOLE and this mark has become very widely known around the world over a number of decades. It is also the owner of certain domain names that incorporate its trademark including <credit-agricole.com> which was created on December 31, 1999.

On May 10, 2017, the Respondent registered the domain name <https-c5-credit-agricole.com>.

The Complainant states that the disputed domain name was used for phishing activities until the Complainant notified the relevant hosting provider who suspended the domain and its associated website. Such website now resolves to a parked page that displays a notice stating that the site has been blocked by the hosting provider.

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

As a threshold matter, paragraph 4(a)(i) of the Policy requires that the Complainant demonstrate its ownership of trademark rights in terms that are reflected in the disputed domain name and that the domain name is identical or confusingly similar to such trademark. From the evidence provided, and not contested by the Respondent, the Complainant owns a number of trademark registrations for the marks CREDIT AGRICOLE and CA CRÉDIT AGRICOLE. In the opinion of the Panel, the disputed domain name is confusingly similar to the Complainant's cited trademarks save for the addition of the terms "https" and "c5", three hyphens, and the .com TLD. The use of such additional terms does not reduce the confusing similarity between the disputed domain name and the Complainant's trademarks.

Next, the Panel finds, under paragraph 4(a)(ii) of the Policy, that the Respondent lacks rights or legitimate interest in the disputed domain name. There is no evidence in the record that the Respondent is commonly known by the disputed domain name nor that has it acquired any trademark rights relevant to the CREDIT AGRICOLE name. Further, the Complainant has made an unrebutted prima facie showing that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers. Specifically, the Complainant asserts that "the disputed domain name was used for phishing activities" and that its associated website was blocked after the Complainant notified the relevant hosting provider of such activities. While the Complainant provides a screenshot of the current website resolution containing a notice that the page has been suspended, it does not provide any further evidence to support its claim of phishing (such as a copy of an actual phishing e-mail or a screenshot of the website prior to suspension). Despite this shortcoming, in light of the current website resolution and the fact that Complainant's assertions are unrebutted, this Panel sees no evidence in the case that a bona fide offering of goods and services or a legitimate non-commercial or fair use is being made of the domain name.

Finally, the Panel finds, under paragraph 4(a)(iii) of the Policy, that the disputed domain name has been registered and is being used in bad faith. The CREDIT AGRICOLE trademark is quite well-known and so, without any response from the

Respondent, the Panel concludes that it is highly likely that the Respondent had prior knowledge of the trademark. Further, the Respondent intentionally attempts to confuse internet users by including the standard URL prefix “https” as part of the disputed domain name. As noted above, proof of the Respondent’s claimed phishing scheme could be more robust, however, even if the disputed domain name was used for another purpose, it is clear that the hosting provider found sufficient cause to block the website. As such, the Panel finds that the disputed domain name copied Complainant’s well-known trademark to attract Internet users, for some purpose involving commercial gain, by creating a likelihood of confusion with the trademark of the Complainant as to source, sponsorship, affiliation, or endorsement of the Respondent’s website (or possibly the source of e-mails using the disputed domain).

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy and met its burden of proving the same by a preponderance of the evidence.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **HTTPS-C5-CREDIT-AGRICOLE.COM**: Transferred

PANELLISTS

Name	**Steven M. Levy, Esq.**

DATE OF PANEL DECISION 2017-06-23

Publish the Decision