Decision for dispute CAC-UDRP-101604

Case number	CAC-UDRP-101604
Time of filing	2017-07-14 10:54:11
Domain names	agricole-credit.org

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Joseph Hafley

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has been an owner of the registered Credit Agricole word trademarks since 1978, especially international No. 1064647, since 2011-01-04 which is valid. Further the Complainant is owner of domain names, such as credit-agricole.com since 1999-12-31. The Respondent registered the disputed domain name on July, 5th 2017. The Complainant also provided evidence that he owns a domain name containing the name credit-agricole.com, registered well before the Respondent registered the disputed domain name.

FACTUAL BACKGROUND

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

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The Complainant is a bank based in Montrouge, France. The Complainant is leading company in the retail banking business in France and one of the largest banks in Europe following his information on www.credit-agricole.com.

The Respondent is an U.S. citizen, who is represented by his Registry which is based in People’s Republic of China. On July 5th, 2017 the Respondent registered the disputed domain name agricole-credit.org. He uses the disputed domain name for

commercial purposes and offers similar content on the website related to the disputed domain name.

The Complainant, represented by the company nameshield, Ms. Maxime Benoist, France, filed the Complaint against the Respondent claiming that the Respondent registered the disputed domain name without rights or legitimate interest and in bad faith. Therefore the registration should be declared abusive and the disputed domain name transferred to the Complainant.
As legal basis were named WIPO Case No. D2000-0662 Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale, WIPO case no. D2003-0455 Croatia Airlines d.d. v. Modern Empire Internet Ltd, NAF case FA 758981, Summit Group, LLC v. LSO, Ltd., WIPO - D2010-1683 Credit Agricole S.A. v. Dick Weisz and below mentioned CAC Cases.

The Respondent didn't react to the Complainant's contentions.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant principally makes the following assertions:

The Complainant is an international operating French banking company which owns a portfolio of brands including the words "Credit Agricole" in several countries, such as the International registration number 1064647 registered since January 4th, 1999. The Respondent is the owner of the disputed domain name and uses it for commercial purpose. The information on his website damages the reputation of the Complainant's products and violates Complainant's trademarks. The Complainant referred to the CAC case N° 101204, Crédit Agricole S.A. vs. Olivie Guittiere and CAC Case N° 101205, Crédit Agricole S.A. vs. Credit Agricole Info and CAC case N° 101207, Crédit Agricole S.A. vs. CA INFOS. The remedy the Complainant sought concerning the disputed domain name is transfer of the disputed domain name to the Complainant.

RESPONDENT:

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

It is necessary for the Complainant, if it is to succeed in this administrative proceeding, to prove each of the three elements

referred to in paragraph 4(a) of the Policy, namely that:

(i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights; and
(ii) the Respondent has no rights or legitimate interest 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 finds that the disputed domain name agricole-credit.org is confusingly similar to the distinctive trademarks of the Complainant. The fact that the Respondent had chosen the reverse order of words does not change the likelihood of confusion. It does not prevent the likelihood of confusion regardless of the other terms in the domain name (WIPO Case N° D2000-0662 Wal-Mart Stores, Inc. vs. Richard Mac Leod d/b/a for Sale).

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Further it argues that the Respondent is not related to the Complainant.

Moreover, the Complainant contends and provides evidence that the disputed domain name resolves to a website that offers financial products in competition with the Complainant. The Complainant further rightfully contends that the Respondent has not developed a legitimate use in respect of the disputed domain name. Competing use is not considered a bona fide offering of goods or services, nor a legitimate non-commercial or fair use. The Complainant contends that the Respondent was seeking to use the disputed domain name only to divert consumers to its own website and that the Respondent has no legitimate interests in respect of the disputed domain name.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant also asserted and proved that the Respondent tried to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademarks. The Complainant rightfully contended that the disputed domain name is identical to the prior word trademark CREDIT AGRICOLE of the Complainant. The Complainant also referred to the distinctiveness and reputation of its trademarks.

This makes it highly unlikely that the Respondent had no knowledge of the Complainant's prior trademark rights at the time of registration of the disputed domain name. The Complainant rightfully contended that the Respondent has used the disputed domain name intentionally to attract visitors for commercial gain by creating confusion with the Complainant's trademarks, and that the Respondent has used the disputed domain name with that intention, namely in bad faith. Had the Respondent wanted to present a bona fide criticism site then it would have been well advised to have included some negative modifier in its domain name and to have restricted itself to objective and reasoned criticism on its website. But this argument is not to be discussed further because bad faith is evident, whatsoever.

Accordingly, the Panel finds that the disputed domain name was both registered and used in bad faith and that the Complaint succeeds under 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. **AGRICOLE-CREDIT.ORG**: Transferred

PANELLISTS

Name	**Dr. jur. Harald von Herget**

DATE OF PANEL DECISION 2017-08-28