Decision for dispute CAC-UDRP-101666

Case number	CAC-UDRP-101666
Time of filing	2017-09-06 10:27:38
Domain names	CRADITAGRI.COM, CRADITAGRI.ORG

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	walter mauche

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to any of the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant has demonstrated to be is owner of trademarks registered worldwide, comprising the country where the Respondent resides (Switzerland):
1. International (figurative) trademark "CA CREDIT AGRICOLE" no. 441714, registered on 25 October 1978 in classes 16, 35, 36, 42
2. International (figurative) trademark "CA CREDIT AGRICOLE" no. 525634, registered on 13 July 1988 in classes 16, 35, 36
3. EUTM (figurative) trademark "CA CREDIT AGRICOLE" no. 005505995, filed on 20 November 2006, registered on 20 December 2007 in classes 9, 36, 38
4. EUTM (word) trademark "CREDIT AGRICOLE" no. 006456974, filed on 13 November 2007, registered on 243 October 2008 in classes 9, 16, 35, 36, 38
5. International (word) trademark "CREDIT AGRICOLE" no. 1064647, registered on 4 January 2011 in classes 9, 16, 35, 36, 38

FACTUAL BACKGROUND

The Complainant asserts and provides evidentiary documentation of the following facts, which are not contested by the Respondent.

The Complainant is leader in retail banking in France and one of the largest banks in Europe. First financing the French economy and major European player, Credit Agricole S.A. assists its clients' projects in France and around the world, in all areas of banking and trades associated with it: 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 11100 banking agencies in the world.

The disputed domain names <craditagri.com> and <craditagri.org> were registered by the Respondent identified as “walter mauche” on 2017-08-26.

The disputed domain names point to a content in relation to the Complainant.

PARTIES CONTENTIONS

The Complainant contends that the disputed domain names are confusingly similar to its distinctive and well-known marks since they contain the CREDIT AGRICOLE trademark in its entirety. It also states that the replace of the letter “E” to “A” for the word “Credit” and the reduction of the letters “cole” for the word “agri”; and the addition of the extensions GTLDs “.com” and “.org” are not sufficient to escape the finding that the disputed domain names are confusingly similar to the Complainant's trademarks and linked to the Complainant. In further, the domain names display information in relation to the Complainant and its trademark.

The Complainant affirms that the Respondent:
- is not known by the Complainant;
- is not affiliated with nor authorized by CREDIT AGRICOLE S.A. in any way;
- has no rights or legitimate interests in respect of the disputed domain names, and
- is not related in any way to its business.

The Complainant also adds that it does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks CREDIT AGRICOLE, or apply for registration of the disputed domain name by the Complainant.

According to the Complainant the Respondent has not made a bona fide offering of goods or services, or a legitimate non-commercial or fair use of the domain names, because the Respondent’s <craditagri.com> and <craditagri.org> resolve to fraudulent phishing websites, attempting to obtain internet users’ personal information, presumably for Respondent’s profit.

The Complainant, therefore, requests the transfer of the disputed domain names.

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 UDRP Policy the Complainant is required to prove each of the following three elements to obtain the transfer of the disputed domain names:
(i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
(iii) the disputed domain names have been registered and are being used in bad faith.

I. RIGHTS AND IDENTITY OR CONFUSING SIMILARITY

The Complainant has established that it has rights in the trademarks corresponding and/or containing the distinctive part "CREDIT AGRICOLE" since 1978. The Complainant's trademarks were registered prior to the registration of the disputed domain names (26 August 2017) and are widely well-known.

The Panel finds that the domain names <CRADITAGRI.COM> and <CRADITAGRI.ORG> are confusingly similar to the Complainant's trademarks, since it is consensus view of UDRP Panels that adding, deleting or substituting letters or numbers of the complainant’s registered mark does not preclude a finding of confusing similarity. Therefore, slight differences, as the substitution of the letter “e” of the word "credit" with the letter "a" and deleting the letters "c" "o" "l" "e" of the word "agricole" of the Complainant’s marks is insufficient to negate the confusingly similarity between the disputed domain names and the Complainant's marks.

UDRP Panels also agree that the top-level domain (TLD), in this case <.com> and <.org>, is usually to be ignored for the purpose of determination of identity or confusing similarity between the disputed domain name and the trademark of the complainant as it is a technical requirement of registration (see paragraph 1.11.1 WIPO Overview 3.0).

Additionally, the review of the websites to which the domain names resolve, reproducing the dominant elements from the Complainant's site and containing the Complainant's well-known marks with the purpose of misleading Internet users and obtaining sensitive or confidential personal information, makes it clear that Respondent's intention was to trade off the Complainant's and its marks' reputation and it support the finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has proven the first element of the paragraph 4(a) of the UDRP Policy.

II. LACK OF RIGHTS OR LEGITIMATE INTERESTS

It is a consensus view of UDRP Panels that the Complainant shall establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent (see paragraph 2.1 of the WIPO Overview 3.0: "[...] where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.")

The Complainant has no relationship with the Respondent whatsoever. The Respondent has never received any approval of the Complainant, expressed or implied, to use the Complainant's rademarks or any other mark identical or confusingly similar to such marks.

As per the WHOIS records, confirmed by the Registrar, the Respondent is Walter Mauche and there is no evidence that the Respondent has been commonly known by the domain names <CRADITAGRI.COM> and <CRADITAGRI.ORG> or has acquired any rights in a trademark or trade name corresponding to the disputed domain name.

The disputed domain names resolve to a website which is a copycat version of the Complainant's site, using the same for phising activities which is not a bona fide, legitimate or fair use under the UDRP Policy.

The Panel finds that the Complainant has established its prima facie case and the Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate any rights or legitimate interests in the disputed domain names. Thus, the Panel is satisfied that the Complainant has met the second requirement of the paragraph 4(a) of the UDRP Policy.

III. BAD FAITH REGISTRATION AND USE

Considering that:
- the Respondent has registered the disputed domain names confusingly similar to well-known trademarks of the Complainant, by substituting the letter "e" with the letter "a" in the word "credit" and deleting the letters "c" "o" "l" "e" of the word "agricole", creating in such way a likelihood of confusion with such marks;

- the domain names are used to host a copycat version of the Complainant's website and for phishing activities this Panel finds that the Complainant has discharged the burden of proof under paragraph 4(a)(iii) of the UDRP Policy and the domain names have been registered and are being 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. **CRADITAGRI.COM**: Transferred
2. **CRADITAGRI.ORG**: Transferred

PANELLISTS

Name	**Avv. Ivett Paulovics**

DATE OF PANEL DECISION 2017-10-16

Publish the Decision