Decision for dispute CAC-UDRP-101720

Case number	CAC-UDRP-101720
Time of filing	2017-10-06 13:05:54
Domain names	AUTH-CREDIT-AGRICOLE-AGENCE-NET.COM

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	noam attali

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

The Complainant owns several trade marks that comprise or incorporate the words "CREDIT AGRICOLE", including international registration no. 441714 since 25 October 1978, and international registration no. 1064647 registered since 1 January 2011.

FACTUAL BACKGROUND

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

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

The Complainant owns several trade marks that comprise or incorporate the words "CREDIT AGRICOLE", including international registration no. 441714 since 25 October 1978, and international registration no. 1064647 registered since 1

January 2011.

CREDIT AGRICOLE S.A. is also the owner of domain names, including the same distinctive wording CREDIT AGRICOLE®, such as <credit-agricole.com> registered since 31 December 1999.

The disputed domain name <auth-credit-agricole-agence-net.com> was registered by the Respondent identified as “noam attali” from Mexico” on 29 September 2017.

The Complainant states that the disputed domain name is confusingly similar to the Complainant’s trade marks and domain names associated.

There at first site appear to be somewhat inconsistent explanations in the Complaint of how the disputed domain name has been used.

The first is that since its registration, the disputed domain name is not used with an active website and displays an inactive website with the information “Not Found (404)“.

The second is that disputed domain name was used for phishing activities and that when the Complainant "notified the Hosting provider of the fraudulent behavior of the Respondent", the "website" was suspended.

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

The disputed domain name (the "Domain Name") can only be sensibly read as including the term "Credit Agricole". Given this the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights (see the reasoning in Research in Motion Limited v. One Star Global LLC WIPO Case No. D2009-0227).

There at first site appear to be somewhat inconsistent explanations in the Complaint of how the disputed domain name has been used.

The first is that "since its registration", the disputed domain name is not used with an active website and displays an inactive website with the information “Not Found (404)".

The second is that disputed domain name was used for phishing activities and that when the Complainant "notified the Hosting provider of the fraudulent behavior of the Respondent", the "website" was suspended.

Given this inconsistency and in the absence of an explanation or evidence as to how exactly the Domain Name was used, the Panel is not prepared to decide the case on the basis that the Complainant has demonstrated that the Domain Name was registered and used for phishing purposes.

Nevertheless, it does not matter. The reason is that the Panel accepts that given the nature of the Domain Name it is inherently implausible that the Respondent has any right or legitimate interest in the Domain Name and it is difficult to conceive of any reason why the Domain Name was registered and has been held which was not in bad faith.

The Complainant contends in respect of bad faith that it is "inconceivable that the Respondent can use the [Domain Name] without infringing the Complainant's intellectual property rights". In the opinion of the Panel that is not really the right test. The question of infringement and/or whether the Domain Name there is any conceivable legitimate reason why the Domain Name was registered and held, whilst overlapping are not quite the same (see, for example, paragraph 6.21 of the decision in Mr. Talus Taylor, Mrs. Anette Tison v. Vicent George Warning/Fayalobi Interaction Management WIPO Case No. D2008-0455).

But again it does not matter and the Panel accepts that the Complainant has demonstrated that the Respondent has no right or legitimate interest in the Domain Name and that the Domain Name was registered and 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. **AUTH-CREDIT-AGRICOLE-AGENCE-NET.COM**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2017-11-15

Publish the Decision