Decision for dispute CAC-UDRP-101739

Case number	CAC-UDRP-101739
Time of filing	2017-10-20 11:21:05
Domain names	enligne3-cf-g3credit-agricole.info

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	CESAR DENIRIO N/A

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings between the parties to this dispute or relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the trademark “CREDIT AGRICOLE” with international registration number 1064647, registered since 2011-01-04.

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 trademarks including the distinctive wording CREDIT AGRICOLE the international registration number 1064647 registered since 2011-01-04.

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 1999-12-31.

The disputed domain name was registered by the Respondent identified as “CESAR DENIRIO” on 2017-10-13.
Since its registration, the disputed domain name is not used with an active website.

PARTIES CONTENTIONS

COMPLAINANT:

I. The Complainant states that the disputed domain name is confusingly similar to the trademarks CREDIT AGRICOLE, and its domain names associated.

The Complainant contends that the disputed domain name only differs from the CREDIT AGRICOLE trademark by the addition of the generic terms "Enligne3", “CF”, and “G3” after the trademark, separated by hyphens. UDRP decisions have also recognized that the addition of a generic terms associated to a trademark does not create a new or different right to the mark or diminish confusing similarity.

The disputed domain name was registered with the gTLD extension “.INFO”. It is well 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. Therefore, the use of the gTLD “.INFO” in the disputed domain name is irrelevant.

All these elements are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks and linked to the Complainant.

II. According the WhoIs information of the disputed domain name, Respondent is identified as “CESAR DENIRIO”.

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

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark CREDIT AGRICOLE, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name redirect to inactive website. The disputed domain name was used for phishing activities. Therefore, the Complainant notified the Hosting provider of the fraudulent behavior of Respondent.

The Complainant contends that the Respondent could not legitimately adopt other than for the purpose of creating an impression of an association with the Complainant. The disputed domain name therefore does not constitute a bona fide offering of goods and services or a legitimate non-commercial or fair use.

Thus, the Complainant contends that Respondent has no rights or legitimate interest on the disputed domain name. The Respondent has registered the disputed domain name only in order to create a likelihood of confusion.

Therefore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

III. The disputed domain name is confusingly similar to the Complainant's trademark CREDIT AGRICOLE®.

The Complainant states that its trademark CREDIT AGRICOLE is widely known.

Given the distinctiveness of the Complainant's trademarks, the Complainant's reputation all over the world, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

The disputed domain name has also been registered by the Respondent in an effort to take advantage of the good reputation Complainant had built up in its trademarks, with the sole aim to create a likelihood of confusion with the Complainant's trademark and domain names.

The term CREDIT AGRICOLE is worldwide only known in relation with the Complainant and especially in Europe.

Furthermore, the disputed domain name resolve to inactive website. It displays a blank page with the information "Not Found (404)".

It seems inconceivable that the Respondent can use the disputed domain name without infringing the Complainant's intellectual property rights, because the disputed domain name are too connected with the Complainant's trademarks.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

In accordance with paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name the Complainant must prove the following:

(i) The 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 Domain Name; and
(iii) The Domain Name has been registered and is being used in bad faith.

In light of the Respondent's default, the Panel may treat as uncontested the Complainant's factual assertions. The Panel will now review each of these elements.

A. Identical or Confusingly Similar

In relation to the trademark rights, the Complainant has established through the evidence on record its trademark “CREDIT AGRICOLE”, since at least early 2011. The Complainant has also provided evidence to show that its mark has achieved recognition through its use.

Regarding the confusingly similarity of the disputed domain name and the Complainant’s trademarks, the Panel notes that the disputed domain name incorporates the entirety of the trademark, namely “CREDIT-AGRICOLE”, with the addition of a word and a string of characters preceding the trademark.

The Panel determines that the dominant element of the disputed domain name is the Complainant’s trademark. The addition of a word and characters does not detract from the confusing similarity between the trademark and the disputed domain name, as per section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO 3.0 Overview).

Accordingly, the Panel concludes the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

The Complainant contents that it never licensed or permitted the Respondent to use its CREDIT AGRICOLE trademark and that the Respondent is not affiliated with nor authorized by it. The Complainant also asserts that, far from using the disputed domain name in respect of any bona fide offering of goods or services, the Respondent used for phishing activities. In the view of the Panel, these assertions are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

As per section 2.1 of WIPO 3.0 Overview, once 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 provide relevant evidence to demonstrate the rights or legitimate interests in the disputed domain name. Should the respondent fail to produce such relevant evidence, the complainant is deemed to have satisfied the second element.

Given that there is no available evidence on record that would otherwise allow the Panel to find any rights or legitimate interests for the Respondent in the disputed domain name and the fact that the Respondent failed to provide any evidence to refute the Complainant’s prima facie showing under the second element, the Panel finds that the Complainant has satisfied the requirements set forth under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent registered the disputed domain name incorporating the entirety of the trademark in it, with an indication of being used for phishing purposes, as per the evidence on record. This indicates that the Respondent was likely aware of the Complainant and had the Complainant’s marks in mind when registering the disputed domain name. Additionally, it seems likely that the Respondent aims to take advantage of the reputation of the Complainant and its trademarks, with the sole aim to create likelihood of confusion with the Complainant’s trademark and the disputed domain name.

Furthermore, and based on the evidence on record, the Panel concludes that the registration and use of the disputed domain name falls within the thrust of the conduct described under paragraph 4(b)(iv), which sets out one of the indicative list of circumstances considered evidence of registration and use of a domain name in bad faith (see Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

The Panel thus finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Accordingly, the Panel finds that the Complainant has satisfied the requirements set forth under paragraph 4(a)(iii) of the Policy.

D. Decision

For the aforementioned reasons, in accordance with Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ENLIGNE3-CF-G3CREDIT-AGRICOLE.INFO**: Transferred

PANELLISTS

Name	**Rodolfo Carlos Rivas Rea**

DATE OF PANEL DECISION 2017-11-28

Publish the Decision