Decision for dispute CAC-UDRP-101834

Case number	CAC-UDRP-101834
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Domain names	credit-agricolecf-g3-enligne.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Credit Agricole SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Carla banaios

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is documented as the owner of several trademarks including the distinctive wording CREDIT AGRICOLE, such as the following registrations:

- International registration “CA CREDIT AGRICOLE” no. 441714 registered since October 25,1978;
- International registration CREDIT AGRICOLE no. 1064647 registered on January 4, 2011.

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

FACTUAL BACKGROUND

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

CREDIT AGRICOLE S.A. (hereinafter the Complainant) is a leader in the retail banking field in France and is one of the largest banks in Europe.

The disputed domain name <credit-agricolecf-g3-enligne.com> was registered by the Respondent identified as “Carla banaios” from Mexico on January 3, 2018.

The disputed domain name has pointed to an inactive website since its registration.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

1. The disputed domain name is confusingly similar to the Complainant's trademarks.

The Complainant states that the disputed domain name <credit-agricolecf-g3-enligne.com> is confusingly similar to its trademarks CREDIT AGRICOLE and its associated domain names.

Indeed, the disputed domain name contains the Complainant’s registered and widely known trademark CREDIT AGRICOLE in its entirety.

The Complainant contends that the addition in the disputed domain name of the generic words “CF”, “G3”, and ENLIGNE (which is French for “ONLINE”) separated from the trademarks CREDIT AGRICOLE by hyphens, and the use of the gTLD “.COM”, are not sufficient elements to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks.

In support of this thesis the Complainant asserts and documents that numerous UDRP decisions have recognized that the addition of a generic term to a trademark does not create a new or different right to the mark nor diminish confusing similarity.

The Complainant further asserts that 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 names and trademarks.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not affiliated with or 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 is not related in any way to the Complainant’s business. The Complainant does not carry out any activity for, nor has any business dealings with the Respondent.

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

Furthermore, the disputed domain name points to an inactive website, and has done so since its registration, and this demonstrates a lack of legitimate interests in respect of the disputed domain name.

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

3. The domain name has been registered and is being used in bad faith.

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. The Complainant also contends that the Respondent registered the disputed domain name with the intention of taking advantage of the Complainant's trademarks.

Moreover, the Respondent has not demonstrated any activity in respect of the disputed domain name. Indeed, the disputed domain name has been inactive since its registration.

The Complainant states that the Respondent has registered the disputed domain name in order to prevent the owner of the trademark from using its trademark in a corresponding domain name.

The Complainant therefore finds that the Respondent has registered the disputed domain name in bad faith and has used the disputed domain name to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to source, affiliation or endorsement, in the meaning of paragraph 4(b)(iv) of the Policy, and thus has acted 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

Discussion and findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy lists three elements that Complainant must prove to merit a finding that the domain name registered by the Respondent be transferred to the Complainant:

1) the domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
2) the Respondent has no rights or legitimate interests in respect of the domain name; and
3) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the CREDIT AGRICOLE trademark.

The Complainant contends that the addition in the disputed domain name of the generic words “CF”, “G3”, and ENLIGNE (which is French for “ONLINE”) separated from the trademarks CREDIT AGRICOLE by hyphens, and the use of the gTLD “.COM”, are not sufficient elements to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks.

This Panel is of the opinion that the addition in the disputed domain name of generic terms and/or numbers does not diminish the confusing similarity with the Complainant’s trademark.

The Panel finds the disputed domain name to be confusingly similar to the CREDIT AGRICOLE trademark in which the Complainant has rights.

Accordingly, the Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is 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).

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Respondent in a UDRP proceeding does not assume the burden of proof, but may establish a right or legitimate interest in a disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy:

a) that before any notice to the respondent of the dispute, he or she used or made preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
b) that the respondent is commonly known by the domain name, even if he or she has not acquired any trademark rights; or
c) that the respondent is making a legitimate, non-commercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

This Panel finds that the Complainant has made a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, or any use in connection with a bona fide offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name.

Finally, it is this Panel’s opinion that the Complainant and its CREDIT AGRICOLE marks enjoy a widespread reputation and a high degree of recognition in their field of activity. Consequently, in the absence of contrary evidence from the Respondent, the CREDIT AGRICOLE marks are not ones that traders could legitimately adopt other than for the purpose of creating an impression of an association with the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that the Respondent have no rights or legitimate interests in respect of the domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

C. Registered and Used in Bad Faith

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of

selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's web site or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's web site or location or of a product or service on the holder's web site or location.

Accordingly, for a Complainant to succeed, the Panel must be satisfied that the domain name has been registered and is being used in bad faith.

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the CREDIT AGRICOLE mark when it registered the disputed domain name.

In addition, the Respondent has not responded to (nor denied) the assertions made by the Complainant in this proceeding.

Given the present facts and circumstances and on the balance of probabilities, the Panel views that the Respondent's conduct constitutes bad faith registration and use under paragraphs 4(a)(iii) and 4(b)(iv) of the Policy.

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

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDIT-AGRICOLECF-G3-ENLIGNE.COM**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2018-02-14

Publish the Decision