Decision for dispute CAC-UDRP-101937

Case number	CAC-UDRP-101937
Time of filing	2018-03-23 09:14:51
Domain names	ca-alps-paylib-du-credit-agricole.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	dlorient florent

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings the Panel is aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is - among others - the owner of the international trademark registration No. 441714 "CREDIT AGRICOLE", granted in 1978 and duly renewed.

The Complainant also owns several domain names incorporating the wording "CREDIT AGRICOLE" since 1999, including <credit-agricole.com>.

FACTUAL BACKGROUND

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

The Complainant is one of the largest banking groups in Europe and owns a portfolio of brands including the international trademark registration No. 441714 "CREDIT AGRICOLE", granted on October 25, 1978 and duly renewed.

Likewise, the Complainant is the owner of a portfolio of domain names including the wording "CREDIT AGRICOLE" since 1999.

The Respondent has registered the domain name <ca-alps-paylib-du-credit-agricole.com> only last March 15, 2018. Such domain entirely incorporates the Complainant's trademark and its domain names, with the addition of some descriptive and geographical terms.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the domain name and is not related in any way with the Complainant's business. In particular, the Complainant states that the Respondent is not affiliated with CREDIT AGRICOLE, nor authorized by such company in any way. In addition, The Complainant affirms it currently 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, or apply for registration of the disputed domain name by The Complainant.

The Complainant contends that the disputed domain name has been registered and being used in bad faith, namely in order to prevent the Complainant from reflecting the mark in the disputed domain name.

The disputed domain name points to a blank page and the Respondent did not provide any explanation concerning the registration (and the passive use) of the disputed domain name.

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

1. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). In particular, the Panel finds that the disputed domain name is identical to the Complainant's trademark "CREDIT AGRICOLE", as well as to the relative domain names registered by CREDIT AGRICOLE SA since 1999.

In this regard, it shall be reminded how several previous UDRP Panels have held that the addition of a generic term associated to a trademark does not create a new or different right to the mark, nor diminish confusing similarity (see, as example, a past decisions involving the Complainant: CAC Case n° 101402 CREDIT AGRICOLE SA v. William Philippe).

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

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, which did not file any Response to the complaint of CREDIT AGRICOLE SA.

As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name. "CREDIT AGRICOLE" definitely is a distinctive sign used by the Complainant as business name, trademark and domain name in order to denote its products and services. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

3. The Complainant has, to the satisfaction of the Panel, shown the domain name to have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

As stated above, the Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent.

In the absence of a Response and given the reputation of the Complainant and its trademarks supported by the submitted evidences (including CAC case 101281 CREDIT AGRICOLE S.A. v. JOSEPH Kavanagh, in which the Panel affirmed that “the Complainant's trademark has a long history, a strong reputation, is highly distinctive (particularly in countries where the primary language is not French) and is widely known”), the Panel infers that the Respondent had the Complainant's trademarks "CREDIT AGRICOLE" in mind when registering the disputed domain name.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use (WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen).

Consequently, the Panel believes that the same was registered and is being (passively) used in bad faith, in order to prevent the Complainant from reflecting the mark in the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CA-ALPS-PAYLIB-DU-CREDIT-AGRICOLE.COM**:

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2018-04-23

Publish the Decision