Decision for dispute CAC-UDRP-101927

Case number	CAC-UDRP-101927
Time of filing	2018-03-23 09:20:00
Domain names	cla-aps-credit-agricole-paylib.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Enora MILLOCHEAU)

Respondent

Name	SIMO TAHIR

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the leader of retail banking in France and is the owner, amongst others of the following:

European Union trademark registration No. 005505995 for CA CREDIT AGRICOLE, registered on December 12, 2007; and

International trademark registrations No. 441714 for CA CREDIT AGRICOLE, registered on October 25, 1978, in classes 16, 35, 36 and 42 and No.1064647 for CREDIT AGRICOLE since December 20, 2007.

FACTUAL BACKGROUND

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

The Complainant is one of the largest European banks and provides its services, both in France and in other countries, also in the field of insurance management, asset leasing and factoring, consumer credit, corporate and investment.

It operates its main website at the domain name <credit-agricole.com>, registered since December 31, 1999.

The disputed domain name <cla-aps-credit-agricole-paylib.com> was registered by the Respondent on March 9, 2018.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY RESPONSE HAS BEEN FILED.

THE COMPLAINANT

The Complainant states that the disputed domain name is confusingly similar to its trademarks and domain names, since the addition in the disputed domain name of the generic words “cla” aps paylib (which refers to “Crédit Agricole”), are not sufficient elements to avoid the risk of confusion between the disputed domain name and the above listed trademarks by the Complainant.

The Complainant contends that the Respondent has no right or legitimate interest in the disputed domain name since i) the Respondent is not affiliated with nor authorized by the Complainant in any way, and the Complainant has not granted any license or authorization to the Respondent to make any use of the Complainant’s trademarks, or apply for registration of the disputed domain name; and ii) the disputed domain name points to an inactive website.

The Complainant also states that the Respondent registered and used the disputed domain name in bad faith because i) given the massive recognition of the Complainant's trademarks, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks; ii) the Respondent registered the disputed domain name with the intention of taking advantage of the Complainant's trademarks; and iii) the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

THE RESPONDENT

The Respondent did not reply to the Complainant’s contentions.

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).

Numerous UDRP decisions have also recognized that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity. Please see for instance:

- CAC Case n° 101402 CREDIT AGRICOLE SA v. William Philippe: finding that: “the addition of the term <SMS> is only a minor variation and therefore not sufficient to distinguish the disputed domain names <smscreditagricole.com> and <credit-agricole-sms.net> from the Complainant’s trademark CREDIT AGRICOLE; the Complainant’s trademark CREDIT AGRICOLE constitutes the dominant component of the disputed domain names.”

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).

Furthermore, the disputed domain name points to an inactive website since its registration. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that

Respondent has no demonstrable plans to use the disputed domain name. This is a blatant evidence of lack of legitimate interests in respect of the disputed domain name.

Please see for instance:

- WIPO case No. D2000-1164, Boeing Co. v. Bressi: the Panel stated that the “Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names”

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).

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.

Please see for instance:

- WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows
- WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen

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 Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks CREDIT AGRICOLE and CA CREDIT AGRICOLE, as it includes the trademarks in their entirety, with the mere addition of hyphens, generic terms and the Top-Level domain “.com” which, as stated in a number of prior decisions rendered under the UDRP, are not sufficient to exclude the likelihood of confusion. The added acronyms have a perceived descriptive maenings and they refer to the contactless payment services. The addition of generic terms does not create a domain name different from the cited registered trademarks (Cac Case 101402 Credit Agricole vs William Philippe).

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent has simply passively held the disputed domain name and has not submitted any evidence showing that it made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the disputed domain name. Therefore, and due to the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

The Respondent is neither a Complainant's Licensee not an authorised person. Mr Tahis is not known to be called or associated to Credit Agricole.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant’s trademarks CREdit agricole, with which the disputed domain name is confusingly similar, and of the prior registration and use of the Complainant’s trademarks, the Respondent was very likely aware of the Complainant and its trademarks at the time of the registration of the disputed domain name.

The disputed domain name has not been used in connection with an active website, i.e. has been passively held. As established in a number of prior cases, the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only

positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and well-known trademarks (i.e. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CLA-APS-CREDIT-AGRICOLE-PAYLIB.COM**:

PANELLISTS

Name	**Massimo Cimoli**

DATE OF PANEL DECISION 2018-04-30

Publish the Decision