Decision for dispute CAC-UDRP-102725

Case number	CAC-UDRP-102725
Time of filing	2019-10-21 13:21:09
Domain names	moncreditagricole.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Bello Binga

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

Registered trademarks, including EUTM No. 6456974 “CREDIT AGRICOLE” filed on November 11, 2007 registered for goods and services in classes 9, 16, 35, 36, 38 and 42.

FACTUAL BACKGROUND

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

The Complainant claims it is the leader in retail banking in France and one of the largest banks in Europe.

The disputed domain name was registered on October 10, 2019 and resolves to an error page displaying the message “Forbidden You don't have permission to access / on this server.”.

Parties' Contentions

The Complainant contends that that the disputed domain name is confusingly similar to trademarks in which it has registered rights. In this view the prefix "mon" does not prevent the risk of confusion, as “mon” (French for "my") is a descriptive term.

Furthermore, the Complainant states it has not granted any license, consent or authorization to the Respondent to use its trademarks “CREDIT AGRICOLE” in a domain name or in any other manner, nor acquiesced in any such use. The Complainant claims that the Respondent did not use the disputed domain name prior to its registration and is not commonly known by it. Furthermore, the Complainant alleges that the disputed domain name resolving to a blocked page does not constitute a bona fide offering of goods or services.

Finally, given the distinctiveness of the Complainant's trademarks and reputation, according to the Complainant it is reasonable to infer that the Respondent has registered the domain names with full knowledge of the Complainant's trademarks, and thus in bad faith. Also, the Complainant asserts that Respondent has used the disputed domain name in bad faith because the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

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 Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks “CREDIT AGRICOLE” as the disputed domain name contains such trademarks in their entirety with the addition of the term "mon" (a French possessive meaning "my" in English) at the beginning, which does not alter the overall impression and prevent the likelihood of confusion.

2. 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.

3. In the absence of a Response, the Panel infers that the Respondent had the Complainant's well-known trademarks “CREDIT AGRICOLE” in mind when he registered the disputed domain name, which was therefore registered in bad faith. The

disputed domain name resolves to a webpage with the message “403 error”. The Panel agrees with the panel in Société Air France v. Domain Admin, Whois Privacy Corp., WIPO Case No. D2019-2192, which concerns a similar case, who decided that such forbidden error message may allow for the disputed domain name being used for some concealed purpose, but on the balance of probabilities on the basis of the information provided to the Panel, the Respondent is likely putting the disputed domain name to a passive use. Considering all circumstances of this matter, this Panel finds that (i) the Complainant’s trademarks have a high degree of distinctiveness and reputation; (ii) the Respondent has the failed to submit a Response or to provide any evidence of actual or contemplated good faith use; and (iii) it is implausible that the disputed domain name can be put to any good faith use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MONCREDITAGRICOLE.COM**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2019-11-21

Publish the Decision