Decision for dispute CAC-UDRP-102758

Case number	CAC-UDRP-102758
Time of filing	2019-10-30 09:19:57
Domain names	ca-if.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	shun peter

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 shows to be the owner of the following trademarks:

• in France:
- CA n°1381908 with priority date since 1986-11-28;
- CA n°3454608 with priority date since 2006-10-05;
- CA n°4189154 with priority date since 2015-06-15;

• EUTM:
- CA n°12289071 with priority date since 2013-11-07;

• IR:
- CA n°933604 with priority date since 2007-03-23, designating more than 50 states.

FACTUAL BACKGROUND

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

The Complainant is a French banking and insurance service group and owns several trademarks consisting of the sign “CA” in various countries throughout the world. The trademarks, on which this complaint has been based, consist of the string of letters “C” and “A” which are graphically represented in a particular way forming up a combined trademark.

According to the Complainant, the letters “CA” refer to the acronym of the term “CREDIT AGRICOLE” and the trademarks are used as the official logo of the Complainant since many years ago.

The Respondent is an individual named Peter Shun, resident of Accra in Ghana. Any other information is known about the Respondent. The disputed domain name <ca-if.com> (the “Domain Name”), was registered on 5 September, 2019 by the Respondent and currently resolves to an error page.

The Complainant states that Respondent uses the Domain Name to pass itself off as one of the Complainant’s employees, in order to receive payments without reason, in place of the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT' CONTENTIONS:

Identical or confusingly similar

The first question that arises is whether Complainant has rights in a trademark or service mark. The next question that arises is whether the Domain Name is identical or confusingly similar to Complainant’s trademark.

The Complainant claims right in the French, EU and several national trademarks registered as designations of the international registration. All of those trademarks are combined marks consisting of a string of letter “CA” accompanied by graphical elements.

The Complainant claims that the Domain Name <ca-if.com> and the Complainant's registered trademarks CA are confusingly similar. Indeed, according to the Complainant, its trademarks are fully contained within the disputed Domain Name and a union of the last letters “IF” refers to the Complainant’s subsidiary, which uses official e-mail addresses “@ca-lf.com”, where the last two letters represents “L” and “F” and are visually highly similar to “I” and “F”.

The overall impression the Domain Name and the Complainant’s trademarks leave are considered by the Complainant as confusingly similar.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the Domain Name or a name corresponding to the Domain Name, nor that the Respondent is making a bona fide offering of goods or services. Moreover, the Complainant states that the Respondent has not been licensed or otherwise authorized to use any of the Complainant’s trademark nor to apply for or use any domain name incorporating such trade marks.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states due to its historical presence in the market, the Respondent could not be unaware of the Complainant rights over the name CA at the time of the Domain Name registration.

Moreover, the Complainant underlines that the Domain Name is used in a phishing scheme, as the Respondent attempts to pass off as one of the Complainant's executive in order to receive payments from unaware persons.

RESPONDENT'S CONTENTIONS:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed Domain Name is identical or confusingly similar to trademarks 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 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 Domain Name has been registered 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. Paragraph 15 of the Rules states that the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

The Complainant is owner of multiples trademarks whose common distinctive element is a particle "CA", which does not have any known meaning and rather refer to the Complainant acronym. Besides the EU protection, the trademarks "CA" have been registered by the Complainant in France and several non-EU countries.

Since the Complainant's trademark "CA" is fully comprised within the Domain Name the trademarks and the Domain Name are similar to the extent that the most distinctive elements of the prior trademarks are reproduced.

The Panel accordingly concludes that paragraph 4(a)(i) of the Policy is satisfied.

2. The Respondent is not in any way related to the Complainant's business, and is not the agents of the Complainant. The Respondent is not currently known and have never been known as "CA", or any combination of this trademark.

Finally the website at the Domain Name is currently inactive and there is no evidence of it having ever been associated with

any goods or services.

Therefore, and in 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 Domain Name.

3. As to the bad faith, the Complainant argues that Respondent registered the Domain Name with actual knowledge of Complainant’s trademarks. Actual knowledge of a Complainant’s rights in a trademark may be proven through a totality of circumstances surrounding the registration of the Domain Name.

Secondly, the Complainant point out that Respondent uses the Domain Name for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks, and domain name used as an official e-mail addresses “@ca-lf.com” of the Complainant's subsidiary Credit Agricole Leasing et Factoring.

Given the widespread presence of the Complainant’s trademarks and the way how the Respondent is using the Domain Name which is confusingly similar to the Complainant’s trademarks and registered domain name of its subsidiary, the Panel finds that intended to free ride on the goodwill of Complainant’s trademark in an attempt to exploit, for commercial gain, Internet users destined for Complainant.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from Respondent, the Panelist infer that the Respondent’s activity is indicative of registration and use of the Domain Name in bad faith.

Consequently 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. **CA-IF.COM**: Transferred

PANELLISTS

Name	**JUDr. Hana Číslerová, LL.M.**

DATE OF PANEL DECISION 2019-12-07

Publish the Decision