Decision for dispute CAC-UDRP-103043

Case number	CAC-UDRP-103043
Time of filing	2020-05-12 09:06:19
Domain names	le-credit-agricole.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	MARO Maro22

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns and uses the CREDIT AGRICOLE mark in connection with its financial services and is the owner of a number of registered trademarks including:

- EUTM registration CREDIT AGRICOLE registration number 005505995 registered on 20 December 2007 for goods and services in classes 9, 36 and 38;

- EUTM registration CREDIT AGRICOLE registration number 006456974 registered on 23 October 2008 for goods and services in classes 9, 16, 35, 36, 38 and 42; and

- International registration CREDIT AGRICOLE (device) registration number 1064647 having a basic registration date of 23 October 2008 for goods and services in classes 9, 16, 35, 36, 38 and 42.

FACTUAL BACKGROUND

The Complainant is one of the largest banks in Europe with projects in France and around the world, in all areas of banking and trades associated with it: insurance management asset leasing and factoring, consumer credit, corporate and

investment.

In addition to the abovementioned trademark registrations, Complainant is the owner of several domain names that incorporate the wording “CREDIT AGRICOLE” including <creditagricole.com> registered since 11 June 2001.

The disputed domain name <le-credit-agricole.com> was registered on 3 May 2020 and as of 4 May 2020, resolved to a website concerning bank services and displaying the Complainant’s trademark and logo. The website was currently inactive as of the date of the Complaint.

In the absence of any Response the only information available about the Respondent is that provided in the Complaint and the WHOIS for the disputed domain name.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant submits that the disputed domain name is confusingly similar to its trademark CREDIT AGRICOLE as it includes the Complainant’s trademark in its entirety.

The Complainant adds that the addition of the term “le”, being the definite article in the French language, does not prevent a finding of confusing similarity.

The Complainant further contends that the addition of the gTLD <com> extension is also not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark. The Complainant in this regard refers to the WIPO Overview 3.0 §1.11.1, “the applicable Top Level Domain (“TDL”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test”.

The Complainant next alleges that the Respondent has no rights or legitimate interest in the disputed domain name, arguing that the Respondent is not identified in the WHOIS database as the disputed domain name. The Complainant argues that past panels have held a respondent not to be commonly known by a disputed domain name in circumstances where the registrant identification details on the WHOIS information was not similar to the disputed domain name. See FORUM Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).”).

The Complainant asserts that the Respondent is not related in any way to the Complainant and the Complainant does not carry out any activity for, nor has any business with the Respondent. FORUM Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).”).

The Complainant further asserts that it has neither licensed nor authorized the Respondent to make any use of the Complainant’s trademark CREDIT AGRICOLE, or apply for registration of the disputed domain name.

The Complainant refers to a printout of the website to which the disputed domain name resolved on 4 May 2020 which has been annexed to the Complaint which illustrates that on that date the disputed domain name resolved to a website concerning bank services and displaying the Complainant’s trademark and logo. The Complainant argues that this demonstrates that the Respondent tried to pass itself off as the Complainant which is neither a bona fide offering of goods or services under Policy 4(c)(i), nor a legitimate noncommercial or fair use under Policy 4(c)(iii). See DramaFever Corp. v. olxhost c/o olxhost FORUM Case No. 1649982, (“Using the domain name in a manner designed to allow Respondent to pass

itself off as Complainant is neither a bona fide offering of goods or services under Policy 4(c)(i), nor a legitimate noncommercial or fair use under Policy 4(c)(iii).").

According to the decision in Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455, a Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant adds that the disputed domain name was registered and is being used in bad faith

The Complainant submits that given the distinctiveness of the Complainant's trademark and its worldwide reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark, see Roundpoint Mortgage Servicing Corporation v. Rene Acevedo, FORUM Case No. 1772179, ("Further, Respondent had actual notice of Complainant's rights before registering the disputed domain name: as already noted, Respondent's logo on the resolving website is almost identical to Complainant's logo on its own website, and the resolving website references Complainant by name. This is sufficient to demonstrate bad faith.").

Addressing the use which is being made of the disputed domain name, the Complainant submits that on 4 May 2020, the disputed domain name resolved to a website on which Respondent identified itself as "CREDIT AGRICOLE BANQUE POPULAIRE" and displayed the Complainant's trademark CREDIT AGRICOLE without consent. Complainant argues that this confirms that the Respondent knew about the Complainant and its rights. See Roundpoint Mortgage Servicing Corporation v. Rene Acevedo FORUM Case No. 1772179, ("Further, Respondent had actual notice of Complainant's rights before registering the disputed domain name: as already noted, Respondent's logo on the resolving website is almost identical to Complainant's logo on its own website, and the resolving website references Complainant by name. This is sufficient to demonstrate bad faith.").

The Complainant further submits that term CREDIT AGRICOLE is only known in relation with the Complainant and in this regard refers to a Google search on the expression CREDIT AGRICOLE which has been annexed as an exhibit to the Complaint, which displays several results, all of them being related to the Complainant and its banking activity.

In conclusion the Complainant contends that by using the disputed domain name, the Respondent have intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the web site, which is an evidence of 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):

The Complainant has adduced convincing evidence of its rights in the CREDIT AGRICOLE mark.

The disputed domain name consists of the Complainant's trademark, preceded by the French definite article "le" and the elements separated by two hyphens.

As the Complainant's trademark is the dominant and only distinctive element of the disputed domain name because the gTLD <com> extension would be regarded as merely a technical necessity in the context, this Panel finds that the disputed domain name is confusingly similar to the CREDIT AGRICOLE mark in which the Complainant has rights.

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):

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name, arguing that the Respondent is not identified in the WHOIS database as the disputed domain name; that Respondent is not commonly known by a disputed domain name; that the Respondent is not related in any way to the Complainant; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that the Complainant has neither licensed nor authorized the Respondent to make any use of the Complainant's trademark CREDIT AGRICOLE, or apply for registration of the disputed domain name; that on 4 May 2020 the disputed domain name resolved to a website concerning bank services and displaying the Complainant's trademark and logo on which the Respondent purported to pass itself off as the Complainant which is neither a bona fide offering of goods or services under the Policy.

It is well established that if the Complainant makes out a prima facie case, the burden of production shifts to the Respondent to prove his rights or legitimate interests in the disputed domain name. The Respondent has failed to file any Response to the Complaint or provide any defence to Complainant's allegations and so has not discharged the burden. In the circumstances this Panel must find that on the balance of probabilities the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has therefore succeeded in the second element of the test in Policy 4(a)(ii).

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):

Given the Complainant's long and widely established reputation and that the disputed domain name is almost identical to its CREDIT AGRICOLE name and mark it is improbable that the registrant of the disputed domain name was unaware of the Complainant and its rights in its trademark when the disputed domain name was chosen and registered on 3 May 2020.

Given that the disputed domain name was almost immediately used as the address of a website on which the Respondent purported to present itself as "CREDIT AGRICOLE BANQUE POPULAIRE" and to use the Complainant's name and mark without permission, on the balance of probabilities the disputed domain name was registered in bad faith to target and take predatory advantage of the Complainant and its goodwill in the CREDIT AGRICOLE mark.

This Panel further finds that on the evidence adduced the Respondent has intentionally caused, permitted or allowed the disputed domain name, to be used as the address of a website in an intentional attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the website, which is an evidence of bad faith use.

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

For the reasons set out above, this Panel finds that the Complainant has satisfied the three elements of the test in paragraph 4 of the Policy and is entitled to the relief sought.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LE-CREDIT-AGRICOLE.COM**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2020-06-04

Publish the Decision