Decision for dispute CAC-UDRP-103144

Case number	CAC-UDRP-103144
Time of filing	2020-07-01 10:01:59
Domain names	certicode-activation.com, certicodeplus-activation.com, certicode-plus.com, certicode-plus.info, certicode-plus.net, certicode.info

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	LA BANQUE POSTALE

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Jason Bourne

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns the French trademark CERTICODE®, application number 3634004, registered since 4 March 2009 for goods and services in classes 36 and 38 (“Complainant’s Trademark”).

The disputed domain names were registered between April 2020 and June 2020.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) LA BANQUE POSTALE is a French bank and a subsidiary of LA POSTE, the national postal service. With 10.8 million active private customers and more than 400,000 customers businesses, professionals, social economy actors and local public sector bodies, LA BANQUE POSTALE is a unique and singular bank driven by the Post Office values of local presence and the highest level of service.

(b) CERTICODE is a service offered by the Complainant to its customers to protect the online customer account. When the customer realizes some operations from its online bank account, a security code is sent by text message in order to confirm this operation. CERTICODE PLUS offers the same protection, through the mobile application.

(c) The Complainant owns the Complainant's Trademark.

(d) The disputed domain names were registered between April 2020 and June 2020. The domain names <certicode-activation.com>, <certicodeplus-activation.com> and <certicode-plus.com> resolve to a website displaying the Complainant's figurative trademark and a false customer access. The domain names <certicode-plus.info> and <certicode-plus.net> are inactive. The domain name <certicode.info> resolves to a page with several links.

The Complainant seeks transfer of the disputed domain names to the Complainant.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) Disputed domain name <certicode.info> is identical to Complainant's Trademark. Disputed domain names <certicode-activation.com>, <certicodeplus-activation.com>, <certicode-plus.com>, <certicode-plus.info> and <certicode-plus.net> are confusingly similar to Complainant's Trademark as the addition of the terms "ACTIVITATION" or "PLUS" and a hyphen is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's Trademark.

(ii) Respondent has no legitimate interest in disputed domain name. He has not been permitted or licensed to use Complainant's Trademark. Respondent is not affiliated with the Complainant nor authorized by it in any way to use its trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

(iii) Disputed domain name has been registered and is being used in bad faith. The Respondent was aware of the Complainant's Trademark at the time of the registration of the disputed domain names, as the domain names <certicode-activation.com>, <certicodeplus-activation.com> and <certicode-plus.com> resolve to a website displaying the Complainant's logo and a false customer access. These disputed domain names are clearly used in a phishing scheme, which is also an evidence of bad faith. Furthermore, the addition of the term "PLUS" in disputed domain names <certicodeplus-activation.com> and <certicode-plus.com> cannot be coincidental, as it directly refers to the security service offered by the Complainant. Finally, the Respondent registered six different domain names containing Complainant's Trademark. This pattern of registrations also clearly shows the Respondent's bad faith.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain names are identical or confusingly similar to the Complainant's Trademark within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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 names within the meaning of paragraph 4(a)(ii) of the Policy.

For details, please see "Principal Reasons for the Decision".

BAD FAITH

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

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain names should be transferred or revoked:

(i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) the disputed domain names have been registered and are being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

RIGHTS

The Panel agrees with the Complainant that the disputed domain name <certicode.info> is identical to Complainant's Trademark and that disputed domain names <certicode-activation.com>, <certicodeplus-activation.com>, <certicode-plus.com>, <certicode-plus.info> and <certicode-plus.net> are confusingly similar to Complainant’s Trademark as the addition of the terms “ACTIVATION” or “PLUS” and a hyphen is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant’s Trademark

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com", ".net" and ".info") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The 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, the 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 UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

Some of the disputed domain names are used in furtherance of a phishing scheme, others are inactive and one displays couple of links to websites unrelated to Complainant and Respondent. Apparently, such content of websites under disputed domain names cannot establish legitimate interest of the Respondent in the disputed domain names. As asserted by the

Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain names. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

As stated above, some of the disputed domain names are used in furtherance of a phishing scheme, others are inactive and one displays couple of links to websites unrelated to Complainant and Respondent. It is therefore clear to the Panel, that the Respondent engaged in a pattern of bad faith conduct targeted on the Complainant where the Respondent registered several domain names containing Complainant's Trademark, used some of them for apparent bad faith activity (phishing) and left the others inactive or displaying worthless links. Such conduct of the Respondent is a clear evidence of bad faith upon registration and use of the disputed domain names.

As a result, the Panel found that the disputed domain names have been registered and used by the Respondent in bad faith (within the meaning of 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. **CERTICODE-ACTIVATION.COM**: Transferred
2. **CERTICODEPLUS-ACTIVATION.COM**: Transferred
3. **CERTICODE-PLUS.COM**: Transferred
4. **CERTICODE-PLUS.INFO**: Transferred
5. **CERTICODE-PLUS.NET**: Transferred
6. **CERTICODE.INFO**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2020-08-16

Publish the Decision