Decision for dispute CAC-UDRP-103249

Case number	CAC-UDRP-103249
Time of filing	2020-08-21 10:13:12
Domain names	credit-agricole.tech

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	antoine cavalier

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 is, inter alia, registered owner of the following trademarks containing a word element "CREDIT AGRICOLE":

- CREDIT AGRICOLE (word), EU Trademark, filing date 13 November 2007, registration date 23 October 2008, trademark no. 006456974, registered for goods and services in classes 9, 16, 35, 36, 38, and 42;

- CA CREDIT AGRICOLE (figurative), EU Trademark, filing date 20 November 2006, registration date 20 December 2007, trademark no. 005505995, registered for goods and services in classes 9, 36, 38;

besides other national and international trademarks consisting of the "CREDIT AGRICOLE" denomination.

The Complainant also owns numerous domain names under various TLDs consisting of the "CREDIT AGRICOLE" denomination or incorporating the same.

FACTUAL BACKGROUND

COMPLAINANT:

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

The Complainant, being generally known as a major European player, assists its clients with projects in France and around the world, in all areas of banking and financial services associated therewith, as for example insurance management asset leasing and factoring, consumer credit, and investments.

DISPUTED DOMAIN NAME:

The disputed domain name <credit-agricole.tech> was registered on 17 August 2020 and is held by the Respondent.

The domain name website (i.e. website to which the disputed domain name resolves) is currently not used and has no content available to public (i.e. the disputed domain name is not currently associated with any active website and is merely parked).

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

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

The Parties' contentions are the following:

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that the disputed domain name is identical to Complainant's trademarks as the disputed domain name contains the Complainant's trademarks in its entirety.

The Complainant contends that addition of the gTLD “.TECH” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant refers to previous domain name decisions concerning the confusing similarity between Complainant's trademarks and various domain names.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not been commonly known by the disputed domain name. Neither the Complainant has been authorized, permitted or licensed the Respondent to use its trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name so as to have acquired rights to or legitimate interests in it.

Furthermore, the domain name website is inactive and without any content which confirms that the Respondent has no demonstrable plan to use the disputed domain name.

The Complainant refers to previous domain name decisions contending that 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 burden shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name.

BAD-FAITH REGISTRATION AND USE

Seniority of Complainant's trademarks predates the disputed domain name registration and such trademarks are well known in relevant business circles. The Respondent can be considered to be aware of the Complainant's trademark when registering the domain name due to well-known character thereof.

The disputed domain name is inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name and claims that any use of disputed domain name would be likely illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's Trademark rights.

The Complainant refers to previous domain name decisions contending that the Complainant's trademarks enjoy high level of notoriety and well-known character.

The Complainant presented the following evidence which has been assessed by the Panel:

- Information about the Complainant and its business;

- Excerpts from various trademark databases regarding Complainant's trademarks;

- Excerpts on the disputed domain name from WHOIS database;

- Screenshots of the disputed domain name website.

RESPONDENT:

The Respondent has not provided any response to the complaint.

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

RIGHTS

The disputed domain name and the Complainant’s trademarks are identical.

For sake of clarity, incorporation of a hyphen “-” into the disputed domain name does not prevent the Panel from finding the disputed domain name and Complainant's trademarks to be identical. Because a space cannot be included in a domain name, a hyphen ("-") customarily replaces a space between two word elements therein.

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

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

Based on general Internet search, the Respondent is not commonly known by the disputed domain name.

In addition, given the fact that the disputed domain name has not been genuinely used (as it was merely parked), the Panel concludes that there is no indication that the disputed domain name was intended to be used in connection with a bona fide offering of goods or services as required by the Policy.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant 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 Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith, namely, by blocking the domain name for itself and not using it for any legitimate purpose.

Such circumstances indicate that the Respondent has either registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant. With comparative reference to the circumstances set out in paragraph 4(b) of the Policy deemed to establish bad faith registration and use, panels have found that the apparent lack of so-called active use of the disputed domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith.

For the reasons described above and since the Respondent failed to provide any explanation in this regard, the Panel contends, on the balance of probabilities, that the disputed domain name has been registered and is being 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. **CREDIT-AGRICOLE.TECH**: Transferred

PANELLISTS

Name	**JUDr. Jiří Čermák**

DATE OF PANEL DECISION 2020-09-25