Decision for dispute CAC-UDRP-103347

Case number	CAC-UDRP-103347
Time of filing	2020-10-16 09:17:47
Domain names	eurofactor-de.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	CREDIT AGRICOLE LEASING & FACTORING S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Hei Ze Shang Zi

OTHER LEGAL PROCEEDINGS

The Complainant has declared that there are no other legal proceedings, pending or decided, which relate to the disputed domain name. The Panel is not aware of any such proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of the EUTM 'EUROFACTOR' (005133327, first registered 13 June 2006), in classes 35 and 36 for various accounting and finance services. In addition, the Complainant is the proprietor of a mark under French law (dating from 2000) which is valid in a number of other territories by way of the Madrid system (746789).

FACTUAL BACKGROUND

The Complainant, a body with its seat in Montrouge, Paris (France), is active in financial services (leasing contracts, factoring, and financing). It operates in its home territory and internationally, and is ultimately part of a well-known financial services group, Crédit Agricole Group. It utilises the brand EUROFACTOR in association with its operations in 'factoring financing' (a way in which its clients can restructure their finances through the selling on of accounts receivable); its operations here are again spread across a number of European states.

The Respondent, an individual with an address in Los Angeles, California (USA), registered the disputed domain name on 17 July 2020.

PARTIES CONTENTIONS

No administratively compliant response has been filed. The Provider is unaware whether the written or email notices were received by the Respondent or not; the Respondent never accessed the online platform.

The Complainant contends that all requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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 disputed domain name differs from the Complainant's mark in two respects (disregarding the top-level domain .COM as is the usual practice in disputes under the Policy). The first is the addition of a hyphen, which is of little significance in its own right, and indeed often used in domain names to replace a space between words. The second is the addition of the string 'DE'. As the Complainant argues, one notable meaning of this term is to denote Germany, being the commonly used abbreviation in various contexts and across languages (derived from 'Deutschland', the name of the state in its official language German) and is indeed the country code top level domain used in respect of that state. The Panel notes here that the Complainant has provided evidence of its activities in Germany. As such, and in the absence of any other evidence or a submission from the Respondent, the Panel can approach this matter as one where a mark is accompanied by a descriptive or geographical term; see generally WIPO Jurisprudential Overview, version 3.0, para 1.8. In such a case, Panels can safely find that the disputed domain name is confusingly similar to the mark, considering at a later stage whether the addition of the term in question is relevant to, inter alia, a legitimate interest.

The Panel also notes the very similar facts in a case cited in the Complaint: WIPO AMC Case No. DCO2019-0045, Credit Agricole Leasing & Factoring S.A v Inert Productions LLC, where the Complainant prevailed and which concerned the domain name <EUROFACTOR-ES.CO>; this case involved the string 'ES' (for Spain).

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 Respondent is known as 'Hei Ze Shang Zi' (and therefore not known by the term EUROFACTOR or anything relating to it), and there is no material available in the Complaint or at the disputed domain name which would suggest any relevant rights or legitimate interests. The Respondent has not participated in these proceedings, and so has not assisted the Panel in the identification of possible rights or legitimate interests. Moreover, the Complainant declares that the Respondent is not affiliated with nor authorised by it (the Complainant), and in particular affirms that it has not issued any license or authorisation to the Respondent, including for the use of the mark EUROFACTOR.

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).

The Complainant points to paragraph 4(b)(iv) of the Policy, where the use of a domain name by a Respondent to intentionally attempt to attract, for commercial gain, Internet users to a web site or other on-line location, by creating a likelihood of confusion with a Complainant's mark as to the source, sponsorship, affiliation, or endorsement of a web site or location or of a product or service that web site or location, is set out as one of the examples of the registration and use of a domain name in bad faith. In support of this contention, the Complainant relies on the Respondent having made available a 'parking' page with commercial links, and the long record of the Complainant's activities.

The Panel must be a little cautious in this regard, given the arguably general nature of the terms 'EURO' and 'FACTOR' (and the aforementioned descriptive reference to Germany via the abbreviation DE), and indeed the relatively specialised activities

of the Complainant (though the Complainant has demonstrated that a search for the string EUROFACTOR returns multiple results pointing to the Complainant and its activities). Nonetheless, the Respondent's actions in presenting commercial links, without any attempt to explain its activities through participation in these proceedings or on the face of its website, does allow the Panel to assume (accepting the Complainant's submissions) that the Respondent was aware of the Complainant's activities when it sought to register the disputed domain name, and continues to benefit from the confusion of Internet users. Regarding the possibility that the Respondent is unaware of the specific commercial links currently being made available, the Panel accepts the view that the Respondent is, for the purposes of proceedings under the Policy, presumed to be responsible for the content appearing on the website at the disputed domain name; see e.g. WIPO AMC Case No. D2018-0497, StudioCanal v Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC; WIPO Jurisprudential Overview, version 3.0, para 3.5.

The Panel also notes and places due weight upon the use of a proxy service by the Respondent.

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

The reasons for the decision are as set out above. In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trade mark EUROFACTOR, and that the disputed domain name registered by the Respondent is confusingly similar to this mark, with the only material difference being the addition of the descriptive or geographic term DE. In light of the evidence presented regarding the use of the disputed domain name for commercial links (without any further explanation or activities) by the Respondent in this case, and the legal findings as set out above, the Panel can find that the disputed domain name was registered and is being operated in bad faith. The requirements for the acceptance of a Complaint under paragraph 4 of the UDRP have therefore been met, and the Panel orders that the disputed domain name be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EUROFACTOR-DE.COM**: Transferred

PANELLISTS

Name	**Prof Daithi Mac Sithigh**

DATE OF PANEL DECISION 2020-11-15

Publish the Decision