Decision for dispute CAC-UDRP-103394

Case number	CAC-UDRP-103394
Time of filing	2020-11-05 10:16:38
Domain names	credit-agricole.finance

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Jennifer Smit

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the distinctive wording “CREDIT AGRICOLE”, such as the followings registrations:

- European registration CA CREDIT AGRICOLE® no. 005505995 registered since 2006-11-20;
- European registration CREDIT AGRICOLE® no. 006456974 registered since 2007-11-13; and
- International registration CREDIT AGRICOLE® no. 1064647 registered since 2011-01-04.

The Complainant is also the owner of several domain names including the same distinctive wording CREDIT AGRICOLE®, such as <creditagricole.com> registered since 2001-06-11 and <credit-agricole.com> registered since 1999-12-31.

FACTUAL BACKGROUND

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

The Complainant (please see their website at: www.credit-agricole.com) is the leader in retail banking in France and one of the largest banks in Europe. First financing the French economy and major European player, the Complainant assists its

clients' 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.

Legal Grounds

I. Domain name is

a. identical

The Complainant states that the disputed domain name is identical to its trademark CREDIT AGRICOLE®. Indeed, the domain name includes the trademark in its entirety.

The Complainant contends that addition of the hyphen and the gTLD ".COM" is 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.

Indeed, as reminded in 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".

Past Panels have confirmed the Complainant's rights over the terms "CREDIT AGRICOLE". For instance CAC Case No. 103249, CREDIT AGRICOLE S.A. v. antoine cavalier (The disputed domain name [<credit-agricole.com>] 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.").

Thus, the disputed domain name is identical to the Complainant's trademark CREDIT AGRICOLE®.

II. The Respondent does not have any rights or legitimate interest in the domain name(s)

Categories of issues involved:

a. Other:

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., 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 UDRP.

The Complainant contends that the Respondent is not identified in the WHOIS database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

For instance 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 paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under

Policy paragraph 4(c)(ii).”).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark CREDIT AGRICOLE®, or apply for registration of the disputed domain name by the Complainant.

The disputed domain name resolves to a page displaying a login box asking for a password and entitled “CREDIT AGRICOLE – Secure”. This page could be used in order to collect personal information of the Complainant’s clients.

Thus, the Respondent’s website cannot be considered as a bona fide offering of services or fair use, since the website can mislead the consumers into believing that they are accessing the Complainant’s website.

For instance Forum Case No. FA 156251, Am. Int’l Group, Inc. v. Busby (finding that the respondent attempts to pass itself off as the complainant online, which is blatant unauthorized use of the complainant’s mark and is evidence that the respondent has no rights or legitimate interests in the disputed domain name).

Thus, the Complainant contends that the Respondent has no rights or legitimate interest in the disputed domain name.

III. The domain name(s) has been registered and is being used in bad faith

Categories of issues involved:

a. Registration of a well-known/famous trade mark
b. Constructive knowledge/prior knowledge of potential rights
c. Phishing

The Complainant states that the disputed domain name is confusingly similar to its well-known trademark CREDIT AGRICOLE® worldwide.

For instance CAC Case No. 101964, CREDIT AGRICOLE SA v. alexadra jean paris (“The Complainant is a well-known bank with global presence […]. The Panel has no doubt that Complainant's Trademarks are well known around the world”).

Besides, the term CREDIT AGRICOLE ® is only known in relation with the Complainant. A Google search on the expression CREDIT AGRICOLE® displays several results, all of them being related to the Complainant and its banking activity.

Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks.

For instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc. (“Complainant’s trademark is well-known and Respondent undoubtedly knew about it when registering the contested domain name. Said domain name would most likely not have been registered if it were not for Complainant’s trademarks.”).

Moreover, the disputed domain name resolves to a page displaying a login box asking for a password and entitled “CREDIT AGRICOLE – Secure”. The website does not contain any information about the Respondent or the website. Therefore, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy). Besides, the Respondent can collect personal information through this website, namely passwords.

Past panels have stated that the Respondent is acting in bad faith by using the domain name in such a way. For instance:

- Forum Case No. 1770729, UNFCU Financial Services, LLC d/b/a Industrial Coverage v. Clark Lienemann ("Use of a confusingly similar domain name to pass off as complainant to conduct a phishing scheme is evidence of bad faith under Policy paragraph");
- Forum Case No. 1760987, Ripple Labs Inc. v. Thomas Viva Vivas ("Use of a domain name to create confusion as to the source, sponsorship, affiliation, or endorsement of competing content therein can evidence bad faith under Policy paragraph 4(b)(iv).").

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

Past Panels have confirmed the Complainant's rights over the terms "CREDIT AGRICOLE" (CAC Case No. 103249, CREDIT AGRICOLE S.A. v. antoine cavalier (The disputed domain name <credit-agricole.com>; CAC Case No. 101964, CREDIT AGRICOLE SA v. alexadra jean paris).

PARTIES CONTENTIONS

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).

This is a case of "typosquatting", i.e. the disputed domain name contains the Complainant's trademark CREDIT AGRICOLE in its entirety with the mere addition of a hyphen between CREDIT and AGRICOLE. It is well established that the specific top level of a domain name such as ".com", ".org" or in case ".finance" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant's trademark. Adding the hyphen, does not take away the confusing similarity between the domain name and the trademark.

Simple exchange or adding of letters or special characters is not a sufficient element to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks and domain names.

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 contends that the Respondent is not affiliated with him nor authorized by him in any way to use his 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.

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 circumstances of the case, including the provided information of the use and reputation of the Complainant's trademark CREDIT AGRICOLE and the distinctive nature of this mark, it is inconceivable to the Panel in the current

circumstances that the Respondent registered the disputed domain name with prior knowledge of the Complainant and the Complainant's mark. The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name currently resolves to a website displaying a login box asking for a password and entitled "CREDIT AGRICOLE – Secure". The Respondent can collect personal information through this website, namely passwords of Complainants customers. The disputed domain name furthermore enables the Respondent to send emails using an e-mail address that contains the disputed domain name.

It is inconceivable that the Respondent can use the e-mails connected to the disputed domain name for good faith use of the disputed domain name as part of an e-mail address. The Panel further notes that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain and/or fraudulent purposes, Internet users to the website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website (par. 4(b)(iv) 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. The three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed domain name is 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 with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is fully incorporated in the disputed domain name.

The disputed domain name is therefore deemed identical or confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered. The present use of the disputed domain name indicates that the disputed domain name is

likely used for phishing and/or as part of e-mail addresses for fraudulent purposes. It is concluded that the Respondent makes bad faith use of the disputed domain name.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) 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.FINANCE**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2020-12-02

Publish the Decision