Decision for dispute CAC-UDRP-103481

Case number	**CAC-UDRP-103481**
Time of filing	**2020-12-29 09:24:20**
Domain names	**creditagricole.link**

Case administrator

Organization	**Denisa Bilík (CAC) (Case admin)**

Complainant

Organization	**CREDIT AGRICOLE S.A.**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Claude Adler**

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant owns a number of trade marks consisting of the name CREDIT AGRICOLE, including the European word and device mark CA CREDIT AGRICOLE, EUTM registration number 005505995, registered on 20 November 2006, in international classes 9, 36 and 38; the European word mark CREDIT AGRICOLE, EUTM registration number 006456974, registered on 13 November 2007, in international classes 9, 16, 35, 36, 38 and 42; and the International word mark CREDIT AGRICOLE, registration number 1064647, registered on 4 January 2011, in international classes 9, 16, 35, 36, 38 and 42.

In addition, the Complainant owns the domain name <creditagricole.com>, registered on 11 June 2001, and the domain name <credit-agricole.com>, registered on 31 December 1999, which are connected to the principal website of the Complainant. The Complainant asserts that it owns other domain names including the name CREDIT AGRICOLE but has not adduced evidence of ownership of any other domain names.

FACTUAL BACKGROUND

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

The Complainant is a leading French retail bank and one of the largest banks in Europe. It assists clients in France and around the world in all areas of banking and trade, including: insurance management, asset leasing, factoring, consumer credit, and corporate and investment services. It has 51 million retail customers in France, 11,000 branches and 142,000 employees world-wide.

The Respondent registered the disputed domain name on 21 December 2020. As at the date of the Amended Complaint and of this Decision, the disputed domain name is inactive. There is no evidence before the Panel that the disputed domain name has ever been linked to an active website since it was registered.

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 trade mark 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

With regard to the first UDRP element, the Panel finds that the disputed domain name <creditagricole.link> is identical with the Complainant's trade marks CREDIT AGRICOLE. Indeed, the disputed domain name incorporates the Complainant's well-known and distinctive trade mark CREDIT AGRICOLE in its entirety. The Panel follows in this respect the view established by numerous other panels that a domain name that wholly incorporates a complainant's trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP (for example, WIPO Case No D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy <porsche-autopartes.com>).

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. As at the time of the Amended Complaint and of this Decision, the disputed domain name is inactive and is not being used for any active website. A lack of content at the disputed domain has in itself been regarded by other panels as supporting a finding that the Respondent lacked a bona fide offering of goods or services and did not make legitimate non-commercial or fair use of the disputed domain name (for example, Forum Case No FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants; and WIPO Case No D2000-1164, Boeing Co. v. Bressi). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised by the Complainant to make any use of the Complainant's trade marks or to apply for or use the disputed domain name. Finally, the Whois information also does not suggest that the Respondent is commonly known by the disputed domain name <creditagricole.link>. Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, the Complainant provided evidence showing that, if the Respondent had carried out a Google search for the term “Credit Agricole”, the search results would have yielded immediate results related to the Complainant, its website at <credit-agricole.com>, and its business and services. It is therefore reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's well-known and distinctive trade mark, and that he registered the disputed domain name in full knowledge of the Complainant's trade mark. The Panel agrees that it is difficult in those circumstances to believe that the Respondent was unaware of the Complainant's trade marks. Indeed, it is likely that the disputed domain would not have been registered if it were not for the Complainant's trade marks (see, for example, WIPO Case No D2004-0673 Ferrari Spa -v- American Entertainment Group Inc).

Furthermore, the disputed domain name is currently inactive. The Respondent has not demonstrated any activity in respect of the disputed domain name. It is difficult to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate on the grounds that it would constitute passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trade mark law under circumstances where that disputed domain name corresponds to the Complainant’s trade mark as currently used by the Complainant to promote and sell its services. Numerous other UDRP panels have taken the view, which this Panel shares, that the passive holding of a domain name with knowledge that the domain name infringes another party’s trade mark rights may in itself be regarded as evidence of bad faith registration and use (see, for example, WIPO Case No D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; and WIPO Case No D2004-0615, Comerica Inc. v. Horoshiy, Inc.).

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDITAGRICOLE.LINK**: Transferred

PANELLISTS

Name	**Gregor Kleinknecht**

DATE OF PANEL DECISION 2021-02-02

Publish the Decision