

Decision for dispute CAC-UDRP-103995

Case number CAC-UDRP-103995

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Domain names unikredit-finanz.com

Case administrator

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

Complainant

Organization UNICREDIT S.p.A.

Complainant representative

Organization Convey srl

Respondent

Organization Pepito IS

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

EU Trademark No. 002911105 UNICREDIT and device for various goods and services in classes 9, 16, 35, 36, 38, 39, 41 and 42 registered on 14 July 2009.

FACTUAL BACKGROUND

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

The Complainant trades under the name UNICREDIT. It is an Italian based global banking and financial services company and the third largest banking group in Europe. It trades in 18 countries and has more than 8,500 branches. It employs over 147,000 employees.

The Complainant is the owner of numerous trademarks containing, or consisting of, the words UNICREDIT registered in relation to, inter alia, financial services.

It has promoted the UNICREDIT trademark extensively over many years through various cultural, sporting and other events

and other mediums.

According to the Registrar disclosure the Respondent is Pepito IS. It provides its address as being at a location in Benin, West Africa. It registered the disputed domain name on 30 June 2021. The disputed domain name does not resolve to an active website.

On 6 July 2021 the Complainant sent a letter of demand to the Respondent by e-mail requesting transfer of the disputed domain name. The Respondent did not respond.

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).

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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant claims registered rights over a number of trade marks. However the Panel has focused on one trade mark registration in particular, being EU Trademark No. 002911105 UNICREDIT and device for various goods and services in classes 9, 16, 35, 36, 38, 39, 41 and 42 registered on 14 July 2009.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a single trademark in a single jurisdiction that predates the registration of the disputed domain name (even if that single

jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO May 7, 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436).

The next question is whether the disputed domain name is confusingly similar to UNICREDIT and device.

UNICREDIT and device appears with a relatively basic device. The dominant portion of the mark is undoubtedly the words UNICREDIT. These words appear somewhat unique with no directly descriptive meaning in English that relates directly to financial services.

Turning to the disputed domain name. The first element, being "unikredit" appears as a phonetically identical misspelling of "UNICREDIT" whilst the second element "-finanz" appears as a misspelling of the word "finance" (English) or "finanza" (Italian), which is descriptive of the Complainant's services.

Finally, the ".com" gTLD is disregarded.

The Panel is therefore satisfied that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name bears no resemblance to the disputed domain name. Further, the disputed domain name does not resolve to a website.

There is simply no basis to conclude that the Respondent has rights or interests in the disputed domain name.

BAD FAITH

In some cases, like VideoLink Inc. v. Xantech Corporation (FA1503001608735) ("VideoLink"), the passive holding of a domain name may contribute to evidence of bad faith. However the Panel notes that in VideoLink the Respondent had held the domain name for "at least fifteen years". That is certainly not the case in the present matter where the Respondent has only held the domain name for less than four months. It is perfectly foreseeable that a domain name holder may take a reasonable amount of time that is more than four months to actively use a domain name.

However what is also clear to the Panel is there is no foreseeable reason why the Respondent would choose a domain name containing the well known trade mark of the Complainant followed by a misspelling of the core service that the Complainant provides under that mark. On its face the composition of this domain name indicates that the Respondent knew of the said trade mark before seeking to register the domain name. Further, there is no response from the Respondent to contradict this inference that the Panel draws under Rule 14(b) and (5)(a) of the UDRP Rules.

The disputed domain name has been registered in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. UNIKREDIT-FINANZ.COM: Transferred

PANELLISTS

Name	Mr Andrew Norman Sykes
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DATE OF PANEL DECISION 2021-10-06

Publish the Decision
