

Decision for dispute CAC-UDRP-104146

Case number	CAC-UDRP-104146
Time of filing	2021-11-11 08:56:13
Domain names	pacificaassurance.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	CREDIT AGRICOLE SA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Midwest Health Services, inc.
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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 has proven to be the owner of the PACIFICA (word) mark.

The Complainant is, inter alia, the owner of the following trademark:

French trademark registration no. 1579475 "PACIFICA", granted on March 9, 1990 and renewed, in classes 16, 35 and 36;
and

The Complainant is also the owner of domain names, including the same distinctive wording PACIFICA, such as <pacifica.fr> registered since February 1, 1996.

FACTUAL BACKGROUND

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

Founded in 1990, Pacifica is the damage insurance company of the Crédit Agricole group, a subsidiary of Crédit Agricole Assurances since 2009.

The disputed domain name <pacificaassurance.com>, registered on July 30, 2004, redirects to a page with commercial links.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant contends that the disputed domain name <pacificaassurance.com> is confusingly similar to its trademark "PACIFICA".

The Complainant further affirms that, as a matter of fact, pacificaassurance.com exactly reproduces the trademark "PACIFICA" with the mere addition of the French generic term "assurance" ("insurance" in English), which is a clear reference to the Complainant's business activity.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the distinctiveness of the Complainant's trademark, and the fact that the Respondent combined it with the French term "assurance" – which clearly refers to the Complainant's business activity – it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Furthermore, the disputed domain name resolves to a parking page with commercial links, some referring to the insurance sector.

Finally, the Complainant contends that the Respondent registered the domain name in knowledge of the trademark in order to attract internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the descriptive term, "assurance", does not prevent the disputed domain name from being confusingly similar to the Complainant's trademark.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark, and the fact that the Respondent combined it with the French term "assurance" – which clearly refers to the Complainant's business activity – the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark, in order to attempt to attract Internet users for commercial gain to its own website.

Thirdly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in the cease and desist letter and in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. PACIFICAASSURANCE.COM: Transferred
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PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION 2021-12-10

Publish the Decision
