

Decision for dispute CAC-UDRP-104203

Case number CAC-UDRP-104203

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Domain names creditagricole.one

Case administrator

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

Complainant

Organization CREDIT AGRICOLE S.A.

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Sergecom

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 submitted evidence that it is the registered owner of the following rights:

- (i) the EU trademark registration No. 005505995 for "CA CRÉDIT AGRICOLE" (device), valid since 20 November 2006, registered for the classes 9, 36 and 38;
- (ii) the EU trademark registration No. 006456974 for "CREDIT AGRICOLE" (word), valid since 13 November 2007, registered for the classes 9, 16, 35, 36, 38 and 42; and
- (iii) the international registration No. 1064647 for "CREDIT AGRICOLE", registered since 4 January 2011 for the classes 9, 16, 35, 36, 38 and 42, and designated for Albania and Ukraine.

The Complainant also provided information, supported by evidence, that it is the registered holder of domain names that include the distinctive trademark CREDIT AGRICOLE, such as <creditagricole.com> (created on 11 June 2001) and <credit-

agricole.com> (created on 31 December 1999).

FACTUAL BACKGROUND

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

The Complainant, CREDIT AGRICOLE S.A., 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.

The disputed domain name <creditagricole.one> was registered on 25 November 2021 and redirects to a parking page.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

A. THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant states that the disputed domain name is identical to its trademark "CREDIT AGRICOLE" because the disputed domain name includes the trademark in its entirety. The Complainant contends that the addition of the hyphen and the new gTLD ".ONE" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark. The Complainant notes that the applicable Top-Level Domain in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test.

Furthermore, the Complainant mentions an earlier panel decision that confirmed its rights over the terms "CREDIT AGRICOLE", particularly the CAC Case No. 103249 concerning <credit-agricole.tech> domain name.

The Complainant concludes that the disputed domain name is identical to its trademark "CREDIT AGRICOLE".

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

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.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed 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.

Furthermore, the Complainant points to the fact that the disputed domain name is not used. The Complainant contends

that Respondent did not make any use of the disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

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

C. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

The Complainant states that the disputed domain name is confusingly similar to its well-known trademark "CREDIT AGRICOLE" worldwide, and refers to an earlier decision in the CAC Case No. 101964, where the Panel stated that "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 Complainant argues that the term "CREDIT AGRICOLE" is only known in relation to 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 disputed domain name with full knowledge of the Complainant's trademarks.

Furthermore, the disputed domain name is not used. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

As prior UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

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

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

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution

Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, the Complainant must prove each of the following: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted EU and international trademark registrations for "CREDIT AGRICOLE", which all significantly pre-date the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name. This is true also for the so-called new generic top-level suffixes. Indeed, it has been repeatedly held in numerous UDRP cases that gTLDs such as ".online", ".site" and ".website" have no distinctive character (see for example CAC Cases No. 103323, 103114 and 102865) and would most likely be disregarded by web users. The same conclusion undoubtedly applies also to the ".one" gTLD.

The disputed domain name incorporates the Complainant's trademark "CREDIT AGRICOLE" in its entirety. The Panel, therefore, finds that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

B. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use.

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain name.

C. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant states, in summary, that the disputed domain name is confusingly similar to its well-known trademark, that the Respondent must have had actual knowledge of the Complainant's rights in the trademark, and that the disputed domain name is not used.

First of all, the Panel has already found that the domain name is identical or confusingly similar with the Complainant's trademark "CREDIT AGRICOLE". It is well established that mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith. On top of that, this Panel concurs with the previous panel in the CAC Case No. 101964 in that the asserted trademarks are well-known, and consequently afford its owner stronger protection.

Secondly, the Complainant submitted evidence that the Panel believes sufficiently demonstrates the Respondent must have or at least should have been aware of the existence of the Complainant, its trademark, its domain names and, generally, the Complainant's online as well as offline business activities.

Lastly, the evidence submitted by the Complainant also shows that, at least upon filing the complaint, the disputed domain name resolved to a parking page and was inactive.

Typical circumstances demonstrating respondent's bad faith include a situation where the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (see Paragraph 4(b)(iv) of the Policy).

Taking into account the above-described facts and evidence submitted by the Complainant, the Panel is satisfied that several signs of bad faith in registering and use of the disputed domain name by the Respondent are present in this case, in particular: (i) the degree of similarity between the disputed domain name and the Complainant's trademark that is indeed well-known in view of this Panel; (ii) absence of rights or legitimate interests coupled with no response from the Respondent to this Complaint; (iii) lack of use of the disputed domain name; and (iv) absence of any conceivable good faith use.

Therefore, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. CREDITAGRICOLE.ONE: Transferred

PANELLISTS

Name	Mgr. Vojtěch Chloupek
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DATE OF PANEL DECISION 2022-01-09

Publish the Decision
