Decision for dispute CAC-UDRP-101203

Case number	CAC-UDRP-101203
Time of filing	2016-04-12 10:21:38
Domain names	WWW-CREDIT-AGRICOLE.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Xuan Dong

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 is the owner of several trademarks "Credit Agricole" in various countries including the US for, inter alia, banking services.

FACTUAL BACKGROUND

The Complainant is a leading retail banking institute in France and one of the largest banks in Europe.

First financing the French economy and major European players, 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 Complainant owns several trademarks including the word elements "CREDIT AGRICOLE".

The Complainant is the owner of domain names, including the same word elements "CREDIT AGRICOLE", such as in the domain name <credit-agricole.com>.

The disputed domain name <www-credit-agricole.com> was registered on 29 March 2016 and is not used in connection with an active web site.

The Respondent filed nonstandard communication instead of using the Response form provided by the CAC, as required by the UDRP Supplemental Rules. This nonstandard communication does not provide, inter alia, for an identification of any other legal proceedings that have been commenced or terminated in connection with or relating to the domain name that is the subject of the complaint (5 (c)(vi) of the Policy), state that a copy of the response including any annexes has been sent or transmitted to the Complainant (5 (c)(vii) of the Policy), nor conclude with the statement provided in (5 (c)(vi) of the Policy) followed by the signature (in any electronic format) of the Respondent or its authorized representative.
The Respondent asked for suspension of the proceedings. However, the Complainant refused to agree to a suspension.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT's Contentions:

I.
The Complainant states that the disputed domain name <www-credit-agricole.com> is confusingly similar to its trademarks "CREDIT AGRICOLE".

The addition of the element "www" at the beginning of the disputed domain name, separated from the word elements "CREDIT AGRICOLE" by a hyphen, is not sufficient to escape the finding that the domain name is confusingly similar to the trademark "CREDIT AGRICOLE". The domain name can be considered as a case of typosquatting.

According to the Complainant, as stated in a previous case, typosquatting is defined as “a practice whereby a domain name registrant deliberately introduces typographical errors or misspellings into a trademark and then uses the string in a domain name wishing and hoping that Internet users will inadvertently type the malformed string when searching for products or services associated with the targeted trademark and thereby be directed to a web presence controlled by the domain name’s registrant” (see NAF Case FA1409001580790, Tumblr, Inc v. minxiaowei).

Prior panels have established confusing similarity where the domain name(s) at issue take advantage of common misspellings or typographical errors. Specifically, panels have found that adding “www” to the beginning of the domain name still results in confusing similarity (see NAF case FA 95092, Bank of Am. Corp. v. InterMos).
Further, the overall impression of the designation as being connected to the trademarks "CREDIT AGRICOLE" of the Complainant has not changed by the adding of the element "www". It does not prevent the likelihood of confusion between the disputed domain name and the name of the Complainant, his trademarks and his domain names associated.

The Complainant claims that many UDRP decisions have also confirmed the Complainant’s rights and notoriety providing a list of such cases.

Thus, the Complainant concludes that the disputed domain name <www-credit-agricole.com> is confusingly similar to the Complainant's trademark "CREDIT AGRICOLE".

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

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <www-credit-agricole.com>. The Complainant has not entered into any business relation with the Respondent.

Neither a license nor any other authorization has been granted to the Respondent to make any use of the Complainant’s

trademarks "CREDIT AGRICOLE" or apply for the registration of the disputed domain name.

Furthermore, the website linked to by the disputed domain name displays a registrar parking site containing pay-per-click links to site offering services similar to Complainant's. Previous UDRP panels stated that “the operation of a pay-per-click website under a confusingly similar domain name was not a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy nor a legitimate noncommercial or fair use under paragraph 4(c)(iii) of the Policy (NAF case no. FA 918556, Disney Enters., Inc. v. Kamble).

This confirms that the Respondent does not have any demonstrable plan to use the disputed domain name. Accordingly, the Respondent has no rights or legitimate interests on the disputed domain name <www-credit-agricole.com>.

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

The Complainant states that its trademarks "CREDIT AGRICOLE" are widely known. Past panels have confirmed the notoriety of the trademarks "CREDIT AGRICOLE" in the following cases.

According to the Complainant, 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.

Moreover, the website in relation with the disputed domain name displays a registrar parking page containing pay-per-clicks links.

Based on this, the Complainant concludes that the Respondent has registered and is using the disputed domain name <www-credit-agricole.com> in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

I.
As the nonstandard communication of the Respondent does not comply with the requirements of the Policy, the Panel holds that no administratively compliant response has been filed by the Respondent. Therefore, pursuant to paragraph 14 (b) of the Rules the Panel may draw such inferences therefrom as it considers appropriate. The Panel may accept the contentions of the Complainant as admitted by the Respondent.

II.
The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to the

Complainant's trademarks (within the meaning of paragraph 4(a)(i)of the Policy).

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademarks. Both word elements used, "Credit" and "Agricole", are identical. The top level domain ".com" is to be neglected in this assessment. Further, the element "www" is to be neglected, as the internet users will understand it as the abbreviation of "world wide web" and/or a necessary, or at least typically used element, when typing in a URL in order to enter someone's website.

III.
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).

No arguments why the Respondent could have own rights or legitimate interests in the disputed domain names, is at hand, particularly, because Complainant has stated that it is using the name "Credit Agricole" worldwide, and, thus, also in the US, where the Respondent – acc. to the whois information - was located at the time the domain name was registered. The Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain names.

IV.
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).

The timing of the registration of the disputed domain name indicates Respondent's bad faith in registering such domain name, as, at that time of registration, the Complainant was already known under the name "Credit Agricole" and was the owner of several trademarks "Credit Agricole" in the US and other countries. The Panel has no reason to disbelieve the Complainant when it argues that this coincidence has its roots in the fact that the Respondent knew the Complainant and its activities at the time of registration.

There is no indication that the Respondent has chosen the domain name freely and without reference to Complainant's trademarks.

As the Complainant further states, the concept of the domain name "being used in bad faith" is not limited to positive action, but rather incorporates inaction. At least in this case, the Panel agrees. According to paragraph 4 (b) (i) – (iii) of the Policy the circumstances of registering a domain name to, inter alia, sell it, to prevent the owner of a trademark from reflecting the mark in the corresponding domain name, provided, that one has engaged in a pattern of such conduct, or the registration for the primary purpose of disrupting the business of a competitor indicate registration and use in bad faith.

Particularly, the pattern of conduct the Respondent entered into indicates the use of the disputed domain name in bad faith. Registering domain names identical/confusingly similar to trademark registrations, prevents trademark owners from reflecting their trademarks in a corresponding domain name and disrupts their business with respect to the products, the trademarks protect. Here, the Respondent obviously hopes that internet users will wrongly type ""www-credit…" to search for the Complainant and will end up on the website of Respondent and Respondent will be paid per click by directing such users to competitors of the Complainant. This cannot be regarded a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy nor a legitimate noncommercial or fair use under paragraph 4(c)(iii) of the Policy.

Therefore, the Panel holds that the Respondent has registered and has used 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. **WWW-CREDIT-AGRICOLE.COM**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2016-05-19

Publish the Decision