Decision for dispute CAC-UDRP-101204

Case number	CAC-UDRP-101204
Time of filing	2016-04-12 10:22:10
Domain names	credit-agricole-aspi.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	OLIVIE GUITTIERE

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name CREDIT-AGRICOLE-ASPI.COM (the 'Domain Name').

IDENTIFICATION OF RIGHTS

CREDIT AGRICOLE SA (the 'Complainant') is the owner of a number of registered trade marks for CREDIT AGRICOLE, including in the EU, registered in various classes under EUTM number 6456974 on 23 October 2008.

FACTUAL BACKGROUND

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

The Complainant is a leader in French retail banking, and is one of the largest banks in Europe. The Complainant's website can be found at 'www.credit-agricole.com'.

The disputed Domain Name was registered on 30 March 2016, post dating the Complainant’s trade mark.

The Domain Name does not resolve to an active website, but merely to a holding page stating "Sito web in manutenzione".

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the Domain Name is confusingly similar to the Complainant's trade marks for 'CREDIT AGRICOLE', registered in, inter alia, the European Union (Paragraph 4(a) (i) UDRP). The ".com" aspect of the Domain Name can be disregarded. The Complainant contents also that the addition to their trade mark (separated by a hyphen) of the letters 'ASPI' is not sufficient to escape a finding that the Domain Name is confusingly similar to the Complainant's trade marks.

The Complainant claims the Respondent does not have any rights or legitimate interest in the Domain Name as:
- The Respondent does not use the trade mark CREDIT AGRICOLE nor the Domain Name in connection with any offering of its own goods or services. The website is inactive and has not been active since it was registered.
- The Respondent is not affiliated with or authorised by the Complainant.

According to the Complainant the Domain Name has been registered and is being used in bad faith as it contains their famous trade mark coupled with an inactive website. It is reasonable to infer the Respondent registered the Domain Name in full knowledge of the Complainant's rights.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trademark 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.

The Complainant first filed its complaint in relation to the Domain Name with the Czech Arbitration Court on 8 April 2016. The Complaint at that time was directed towards the registrant provided by a privacy shield service which stated the following on the WHOIS, 'Contact Privacy Inc. Customer 0142686964'. However, following a request by the CAC for Registrar Verification, the privacy shield was lifted to reveal the true identity of the registrant of the Domain Name as being a French based individual called 'Olivie Guittiere'. As a result the Complainant filed and amended the complaint so as to be filed against Olivie Guittiere.

The CAC formally commenced proceedings on 14 April 2016 and notified the Respondent accordingly.

The Respondent failed to submit a Response within the time frame required in this Complaint, or at all, and a Notification of Respondent's Default was therefore issued by the Czech Arbitration Court on 6 May 2016.

Having received a Statement of Acceptance and Declaration of Impartiality, the Czech Arbitration Court appointed Steve Palmer of Palmer Biggs IP, Solicitors as the Panel in these UDRP proceedings.

PRINCIPAL REASONS FOR THE DECISION

IDENTICAL OR CONFUSINGLY SIMILAR - paragraph 4(a)(i) of the Policy

The disputed Domain Name consists of the Complainant's CREDIT AGRICOLE mark combined with the letters 'ASPI', and with the words in the Domain Name being separated by hyphens. The Domain Name also contacts the '.com' suffix.

The Panel finds the Complainant's mark to be the most dominant and distinctive aspect of the Domain Name, not least as it is at the beginning of the Domain Name and that it is a distinctive and well known mark. The panel does not regard the addition of the hyphens between the words, together with the letters 'ASPI' (which appear at the end of the Domain Name) to sufficiently alter the nature of the Domain Name such that it might avoid a finding of the Domain Name being confusingly similar to the Complainant's mark.

The '.com' suffix may be disregarded when it comes to considering whether a domain name is identical or confusingly similar to a trade mark in which the Complainant has rights.

As a result, the Panel concludes that the disputed Domain Name is confusingly similar to a trade mark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS - paragraph 4(a)(ii) of the Policy

The Respondent failed to file an administratively compliant (or any) response. In the circumstances the Panel finds from the facts put forward that:

- The Respondent does not appear to have any trade marks associated with the CREDIT AGRICOLE mark.

- There is no evidence that the Respondent is commonly known by the CREDIT AGRICOLE mark, and the Respondent does not have authorisation from the Complainant to use the CREDIT AGRICOLE mark.

- There is no evidence to show the Respondent has used the disputed Domain Name for any bona fide offering of goods or services of its own. The Domain Name does not point to an active website, but merely a holding page stating 'Sito web in manutenzione'.

On the balance of probabilities, and in the absence of any evidence to the contrary (or any administratively compliant response at all) being put forward by the Respondent, the Panel finds that the Respondent does not have any rights or legitimate interests in the Domain Name within the meaning of paragraph 4(a)(ii)of the Policy.

REGISTERED AND USED IN BAD FAITH - paragraph 4(a)(iii) of the Policy

Paragraph 4(b) of the Policy sets out non-exclusive criteria which shall be evidence of the registration and use of a domain name in bad faith including that the Respondent acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, the trade mark owner for valuable consideration. The panel believes it likely that this was one of the reasons behind the Respondent's registers toon and use of the Domain Name.

On the balance of probabilities, and in the absence of any evidence to the contrary (or any administratively compliant response at all) being put forward by the Respondent, the Panel believes from the facts in this case that the Respondent had the Complainant's CREDIT AGRICOLE mark in mind when registering and using the Domain Name. This is all the more likely as following the filing of its Complaint the proxy shield was lifted on the WHOIS, and it transpired that the Respondent is an individual who is based in France. The Panel believes therefore it is very likely that the Respondent would have known of the

Complainant's well known CREDIT AGROCOLE trade mark.

As such, the Panel finds that the Domain Name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDIT-AGRICOLE-ASPI.COM**: Transferred

PANELLISTS

Name	**Steve Palmer**

DATE OF PANEL DECISION 2016-05-23

Publish the Decision