# Decision for dispute CAC-UDRP-101253

| | |
|---|---|
| Case number | **CAC-UDRP-101253** |
| Time of filing | **2016-08-11 12:17:07** |
| Domain names | **ca-credit-agricole.info** |

## Case administrator

| | |
|---|---|
| Name | **Nikola Balaš (Case admin)** |

## Complainant

| | |
|---|---|
| Organization | **CREDIT AGRICOLE S.A.** |

## Complainant representative

| | |
|---|---|
| Organization | **Nameshield (Maxime Benoist)** |

## Respondent

| | |
|---|---|
| Organization | **garofalo giovanni** |

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

Registered trademarks, including International Trade Mark No. 1178102 for CA CREDIT AGRICOLE registered on November 20, 2006.

FACTUAL BACKGROUND

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

The Complainant submits that it is the leader in retail banking in France and one of the largest banks in Europe.

The Complainant CREDIT AGRICOLE S.A. states that it is the leader in retail banking in France and one of the largest banks in Europe. It 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 distinctively worded CA CREDIT AGRICOLE®, CREDIT AGRICOLE® and CA® copies of which are attached to the Complaint.

The Complainant is also the owner of a domain names portfolio, including the same distinctive wording CREDIT AGRICOLE®, such as in its official domain name <credit-agricole.com>.

The disputed domain name <ca-credit-agricole.info> was registered on July 25, 2016 and is currently not used in connection with an active web site.

On August 1, 2016, a cease-and-desist letter was sent on behalf of the Complainant to the Respondent to give it an opportunity to justify the registration of the disputed domain name. The Respondent did not provide any response to this cease-and-desist letter.

---

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

1.The Complainant submits that the disputed domain name <ca-credit-agricole.info> is confusingly similar to its trademarks, in particular its International Trade Mark No. 1178102 for CA CREDIT AGRICOLE registered on November 20, 2006 as the domain name contains the trademarks in their entirety.

The addition of the term "CA" at the beginning of the disputed domain name, in reference of the contraction of the words CREDIT and AGRICOLE is not sufficient to escape the finding that the domain name is confusingly similar to the trademarks CREDIT AGRICOLE®.

The domain name also does not change the overall impression of the design as being connected to the trademark CREDIT AGRICOLE® of the Complainant. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks ad associated domain names.

According to Complainant, many UDRP decisions have also confirmed the Complainant’s rights such as:
- WIPO case no. D2015-0472 Crédit Agricole S.A. v. Dong Hui (<credi-agricole.com>);
- WIPO case no. D2012-2293 Crédit Agricole S.A. v. M. Xavier de Fontgalland (<credit-agricole-parlonsvrai.info>);
- WIPO case no. D2012-1755 Crédit Agricole S.A. v. ICS INC. / Whois Privacy Protection Service, Inc.( <creditagricoleilleetvilaine.com>);
- WIPO case no. D2011-1739 Crédit Agricole S.A. v. Magdalena Bialowas (<credit-agrigole.com>).

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

According to the WIPO case no. D2003-0455 Croatia Airlines d.d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made out, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant states that regarding the information provided by the Whois of the disputed domain name, the Respondent is “garofalo giovanni” domiciled in “Australia”. The Respondent is not known by the Complainant.

The Complainant contends that the Respondent is not affiliated with nor authorized by CREDIT AGRICOLE S.A. in any way. The Complainant therefore contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademarks or apply for registration of the disputed domain names by the Complainant.

Furthermore, the website in relation with the disputed domain name points to an inactive website. Past panels have held that the lack of use of a domain name is considered as an important indicator of the absence of legitimate interests by the Respondent. See for instance:
- NAF no. FA 933276 George Weston Bakeries Inc. v. McBroom: the Panel stated that “the respondent had no rights or legitimate interests in a domain name under either Policy ¶ 4(c)(i) or Policy ¶ 4(c)(iii) where it failed to make any active use of the domain name”.
- WIPO case No. D2000-1164, Boeing Co. v. Bressi: the Panel stated that the “Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names”;

This information confirms that the Respondent has no demonstrable plan to use the disputed domain name.

Accordingly, the Complainant claims the Respondent has no rights or legitimate interests on the disputed domain name <ca-credit-agricole.info>.

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

The Complainant submits that the disputed domain name <ca-credit-agricole.info> is confusingly similar to its trademarks referred to above. Indeed, in the case of its trademark for CA CREDIT AGRICOLE the domain name contains the Complainant's trademark in its entirety.

The Complainant’s trademarks for CA CREDIT AGRICOLE, CREDIT AGRICOLE and CA are widely known. Past panels have confirmed the notoriety of the trademarks CREDIT AGRICOLE® in the following cases:
- WIPO - D2010-1683 Crédit Agricole S.A. v. Dick Weisz;
- WIPO - D2012-0258 - Credit Agricole S.A. v. Wang Rongxi;
- CAC - 100688 - Credit Agricole S.A. v. EMPARK;
- CAC - 100687 - Credit Agricole S.A. v. Hildegard Gruener;
- CAC - 100633 - Credit Agricole S.A. v. Credit Agricole Assurance.

Given the distinctiveness of the Complainant's trademarks and reputation, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name <ca-credit-agricole.info> without actual knowledge of Complainant and its rights in the trademarks.

Furthermore, the website in relation to the disputed domain name resolves to an inactive website. Furthermore, the Respondent did not provide any response to the cease and desist letter sent to him on August 1, 2016.

Finally prior WIPO UDRP panels have held that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Please see for instance:
- WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows
- WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name <ca-credit-agricole.info> in bad faith.

RESPONDENT:

The Respondent did not reply to the Complainant’s contentions and is in default.

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

Upon filing of the Complaint, the Center found that the Complaint was administratively compliant and the administrative proceeding was found to have commenced on August 11, 2016. The Panel is satisfied that all procedural requirements under the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The first issue that arises is whether the Complainant has a trademark or service mark on which it can rely. In that regard, the Complainant submits that it has trademark rights in three trademarks, evidence of which the Complainant has submitted and which the Panel accepts. The Complainant, however, need only rely one of those trademarks, one of which is International Trade Mark No. 1178102 for CA CREDIT AGRICOLE registered on November 20, 2006 which directly corresponds with the disputed domain name. It has been held many times by prior UDRP panels that evidence of a trademark registration with a competent authority gives the registrant adequate rights to file a UDRP Complaint. See Expedia, Inc. v. Tan, FA 991075 (Nat. Arb. Forum June 29, 2007) ("As the [Complainant's] mark is registered with the USPTO, Complainant has met the requirements of Policy ¶ 4(a)(i)."). Accordingly, the Panel so finds on this occasion.

The second issue that arises is whether the disputed domain name is identical or confusingly similar to the Complainant's CA CREDIT AGRICOLE trademark. The domain name adopts the trademark in its entirety and merely adds hyphens between the constituent words. Those additions cannot effect the identity or confusing similarity of a domain name and a trademark as domain name composition will not allow for gaps between the words in question. An objective bystander, comparing the domain name with the trademark could not reach any conclusion other than that the domain name is virtually the same as the trademark and hence confusingly similar to it.

It is also apparent that the disputed domain name is confusingly similar to the other trademarks of which evidence has been provided, namely the CREDIT AGRICOLE® and CA trademarks and the Panel so finds.

The Complainant has thus made out the first of the three elements that it must prove.

The second element that must be established is that the Respondent has no rights or legitimate interests in the disputed domain name.

It is now well established that the onus is on the Complainant to make out a prima facie case that the Respondent does not have a right or legitimate interest in the domain name and that the onus then moves to the Respondent to show that it does in fact have such a right or legitimate interest. See Hanna-Barbera Prods., Inc. v. Entm't Commentaries, FA 741828 (Nat. Arb. Forum Aug. 18, 2006) (holding that the complainant must first make a prima facie case that the respondent lacks rights and legitimate interests in the disputed domain name under UDRP ¶ 4(a)(ii) before the burden shifts to the respondent to show that it does have rights or legitimate interests in a domain name).

Having regard to those principles, the Panel finds that the Complainant has shown that it has a prima facie case that arises from the following considerations.

First, the evidence from the WHOIS of the disputed domain name put in evidence by the Complainant shows that the registrant of the domain name is "garofalo giovanni" which is clearly not the domain name. Moreover, the evidence is that

the Respondent is not known to the Complainant and is not affiliated with nor authorized by the Complainant to use its trademark in a domain name or in any other way. In that regard the Complainant submits that it has not granted a licence nor authorization to the Respondent to make any use of the Complainant's trademarks or to apply for registration of the disputed domain name. The Complainant also does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the disputed domain name points to an inactive website. Past panels have held that the lack of use of a domain name is considered as an important indicator of the absence of legitimate interests by the Respondent. That proposition is supported by numerous decisions including those cited by the Complainant. For instance see NAF decision no. FA 933276 George Weston Bakeries Inc. v. McBroom ( finding that "the respondent had no rights or legitimate interests in a do and WIPO case No. D2000-1164, Boeing Co. v. Bressi (finding that the "Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names"). This information confirms that the Respondent has no demonstrable plan to use the disputed domain name.

In addition, it is clear that the whole modus operandi of the Respondent has been to copy the Complainant's trademark and to give the false impression that it is a domain name of the Complainant. That can never give rise to a right or legitimate interest in the domain name.

All of these matters go to make out the prima facie case against Respondent. As Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

Complainant has thus made out the second of the three elements that it must establish.

The third element that must be established is that the disputed domain name has been registered and used in bad faith.

It is clear that to establish bad faith for the purposes of the Policy, Complainant must show that the disputed domain name was registered in bad faith and has been used in bad faith. It is also clear that the criteria set out in paragraph 4(b) of the Policy for establishing bad faith are not exclusive, but that Complainants in UDRP proceedings may also rely on conduct that is bad faith within the generally accepted meaning of that expression.

Having regard to those principles, the Panel finds that the disputed domain name was registered and used in bad faith. That is so for the following reasons.

First, the Complainant submits that the disputed domain name is confusingly similar to its trademarks and it is clearly confusingly similar, as the Panel has already held, to the CA CREDIT AGRICOLE trademark which is embodied in its entirety in the domain name and to the other trademarks relied on.

That is significant for, as the Complainant submits, the Complainant's trademarks are widely known and prior panels have confirmed that fact, as is illustrated in the decisions cited above.

Accordingly, given the distinctiveness of the Complainant's trademarks and reputation, the Complainant correctly contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the trademarks and Complainant's rights in them. Past Panels have held, as the Complainant also submits, that such a registration is constitutive of bad faith. See NAF case no. FA 744444, Yahoo! Inc. v. Butler ("finding bad faith where the respondent was "well-aware" of the complainant's YAHOO! mark at the time of registration.").

Here again, the fact that the disputed domain name points to an inactive website shows that the registration and use of the domain name was for opportunistic reasons which amount to bad faith as this could not have been for a valid reason. The Respondent also did not reply to the cease and desist letter sent to him on August 1, 2016.

Moreover, prior WIPO UDRP panel decisions cited by the Complainant have held that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use and the Panel so finds

in the this proceeding. See WIPO Case D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO Case-D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen.

Finally, in addition and having regard to the totality of the evidence, the Panel finds that, in view of Respondent's unauthorised registration of the disputed<ca-credit-agricole.info> domain name using the CA CREDIT AGRICOLE mark and in view of the conduct that Respondent engaged in after registering the domain name by pointing it to an inactive website, Respondent registered and used it in bad faith within the generally accepted meaning of that expression.

Accordingly, the Panel finds that the Respondent has registered and is using the disputed domain name <ca-credit-agricole.info> in bad faith.

The Complainant has thus made out the third of the three elements that it must establish.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CA-CREDIT-AGRICOLE.INFO**: Transferred

## PANELLISTS

| Name | **The Hon. Neil Brown, QC** |
|---|---|

DATE OF PANEL DECISION 2016-09-08

Publish the Decision