Decision for dispute CAC-UDRP-101251

Case number	CAC-UDRP-101251
Time of filing	2016-08-01 09:40:59
Domain names	surcredit-agricole.com

Case administrator

Name	Nikola Balaš (Case admin)

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	AMINE MANSOUR

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, registered owner of the following trademarks containing a word element "CREDIT AGRICOLE":

- CREDIT AGRICOLE (word), EU Trademark, filing date 13 November 2007, registration date 23 October 2008, trademark no. 006456974, registered for goods and services in classes 9, 16, 35, 36, 38, and 42;

- CA CREDIT AGRICOLE (figurative), EU Trademark, filing date 20 November 2006, registration date 20 December 2007, trademark no. 005505995, registered for goods and services in classes 9, 36, 38;

besides other national and international trademarks consisting of the "CREDIT AGRICOLE" denomination.

(collectively referred to as "Complainant's trademarks").

FACTUAL BACKGROUND

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

The Complainant, being generally known as a major European player, assists its clients with projects in France and around the world, in all areas of banking and financial services associated therewith, as for example insurance management asset leasing and factoring, consumer credit, and investments.

The Complainant owns several trademarks consisting of the distinctive element CREDIT AGRICOLE as indicated in more details above. The Complainant also owns numerous domain names under various TLDs consisting of the "CREDIT AGRICOLE" denomination or incorporating the same.

The disputed domain name <surcredit-agricole.top> was registered on 17 July 2016 and is held by the Respondent.

The domain name website (i.e. website available under internet address containing the disputed domain name) is currently not used and has no content available to public (i.e. the disputed domain name is not currently associated with any active website).

The Complainant seeks transfer of the disputed domain name to Complainant.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

The Parties' contentions are the following:

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that the disputed domain name is confusingly similar to Complainant's trademarks and that the disputed domain name contains the Complainant's trademarks in its entirety.

The addition of the term "SUR" at the beginning of the disputed domain name is not sufficient to reverse the confusing similarity of the disputed domain name to the Complainant's trademarks. It also does not change the overall impression of the designation as being connected to the Complainant's trademarks or its business and domain names.

The Complainant refers to previous domain name decisions concerning the confusing similarity between Complainant's trademarks and various domain names.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not been commonly known by the disputed domain name. Neither the Complainant has been authorized, permitted or licensed the Respondent to use its trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, Respondent has not been commonly known by the disputed domain name so as to have acquired rights to or legitimate interests in it.

Furthermore, the domain name website is inactive and without any content which confirms that the Respondent has no demonstrable plan to use the disputed domain name.

The Complainant refers to previous domain name decisions contending that the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests; once such prima facie case is made, the burden shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name.

BAD-FAITH REGISTRATION AND USE

Seniority of Complainant's trademarks predates the disputed domain name registration and such trademarks are well known in relevant business circles. The Respondent can be considered to be aware of the Complainant's trademark when registering the domain name due to well-known character thereof.

The Complainant refers to previous domain name decisions contending that the Complainant's trademarks enjoy high level of notoriety and well-known character.

The Complainant presents the following evidence which has been assessed by the Panel:
- Information about the Complainant and its business;
- Excerpts from various trademark databases regarding Complainant's trademarks;
- Excerpts on the disputed domain name from WHOIS database;
- Screenshots of the disputed domain name website.

RESPONDENT:
The Respondent has not provided any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, see "Principal Reasons for the Decision".

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.

For details, see "Principal Reasons for the Decision".

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.

For details, see "Principal Reasons for the Decision".

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

RIGHTS

Since the domain name and the Complainant’s trademarks are not identical, the key element investigated and considered by the Panel is whether the disputed domain name consisting of a term “CREDIT-AGRICOLE” accompanied by a prefix “SUR” is confusingly similar to the Complainant’s trademarks.

The threshold test for confusing similarity under the UDRP involves a comparison between the trademark and the domain name itself to determine likelihood of Internet user confusion. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the domain name. An addition of common, dictionary, descriptive, or other descriptive terms is typically insufficient to prevent threshold Internet user confusion. Confusing similarity test under the UDRP typically involves a straightforward visual and aural comparison of the trademark with the domain name.

Applying the principles described above, the Panel contends that incorporation of the dominant “CREDIT-AGRICOLE” element of Complainant’s trademarks (which standalone enjoys high level of distinctiveness) into the disputed domain name constitute confusing similarity between Complainant’s trademarks and such domain name.

Addition of non-distinctive element - prefix “SUR” - to the “CFREDIT-AGRICOLE” denomination cannot prevent the association in the eyes of internet consumers between the disputed domain name and the Complainant’s trademarks and thus the likelihood of confusion still exists.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is confusing similarity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

Based on general Internet search, the Respondent is not commonly known by the disputed domain name.

Given the fact, that (i) the Respondent's not actively using the disputed domain name and (ii) in the absence of the Respondent's response, the Panel concludes that there is no indication that the domain name was intended to be used in connection with a bona fide offering of goods or services as required by the Policy.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant 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 Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith, namely, by blocking the domain name for itself and not using it for any legitimate purpose.

No active use of the domain name indicates that the Respondent has likely registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant. With comparative reference to the circumstances set out in paragraph 4(b) of the Policy deemed to establish bad faith registration and use, panel has found that the apparent lack of so-called active use of the disputed domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith.

For the reasons described above and since the Respondent failed to provide any explanation in this regard, the Panel contends, on the balance of probabilities, that the disputed domain name has been registered and is being used by the Respondent 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. **SURCREDIT-AGRICOLE.COM**: Transferred

PANELLISTS

Name	**JUDr. Jiří Čermák**

DATE OF PANEL DECISION 2016-09-14

Publish the Decision