Decision for dispute CAC-UDRP-101277

Case number	CAC-UDRP-101277
Time of filing	2016-08-23 12:15:28
Domain names	creditagricole-login.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	A Happy Dreamhost Customer

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it "owns several trademarks including the distinctive wording CREDIT AGRICOLE." The evidence in support thereof includes copies of trademark registration records for, among others, U.S. Reg. No. 1,599,297 for the mark CA CREDIT AGRICOLE (registered June 5, 1990) for use in connection with "banking services, including providing loans and financing, financial consulting and reporting services"; and OHIM Reg. No. 6,456,974 for the mark CREDIT AGRICOLE (registered October 23, 2008) for use in connection with, inter alia, "cartes magnétiques, cartes de débit, cartes de crédit."

FACTUAL BACKGROUND

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

Complainant states that it is the owner of the CREDIT AGRICOLE trademark, which, as stated above, is protected by multiple trademark registrations worldwide.

Complainant alleges that the Disputed Domain Name is confusingly similar to the CREDIT AGRICOLE trademark because it

"contains the Complainant's registered and widely known trademark CREDIT AGRICOLE® in its entirety," the addition of the hyphen is "an insubstantial change," and the addition of the word "login" is "not [a] sufficient element[] to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks and does not change the overall impression of the designation as being connected to the trademark CREDIT AGRICOLE®."

Complainant alleges that Respondent does not have any rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "the Respondent is not affiliated with nor authorized by CREDIT AGRICOLE S.A. in any way"; "[n]either licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks CREDIT AGRICOLE"; "the website in relation with the disputed domain name <creditagricole-login.com> displays an inactive webpage" so, therefore, "the Respondent has no demonstrable plan to use the disputed domain name."

Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith because "[t]he Complainant's trademarks CREDIT AGRICOLE® are widely known"; and "the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use."

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the CREDIT AGRICOLE trademark. As to whether the Disputed Domain Name is identical or confusingly similar to the CREDIT AGRICOLE trademark, the relevant comparison to be made is with the second-level portion of this domain name only (i.e., "creditagricole-login"), as it is well established that the Top-Level Domain (i.e., ".com") may generally be disregarded for this purpose. See WIPO Overview 2.0, paragraph 1.2 ("[t]he applicable top-level suffix in the domain name (e.g., '.com') would usually be disregarded under the confusing similarity test (as it is a technical requirement of registration), except in certain cases where the applicable top-level suffix may itself form part of the relevant trademark.") As previous panels have found, inclusion of the hyphen and the word "login" in the Disputed Domain Name do nothing to alleviate any confusing similarity. See, e.g., Bank of America Corporation v. SANTOSH GHIMIRE / DO SURF IN P. LTD., NAF Claim No. 1615622 (transfer of <bankofamerica-login.com>). Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Under the Policy, "a 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 of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied

paragraph 4(a)(ii) of the UDRP." WIPO Overview 2.0, paragraph 2.1. The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

Complainant cites the landmark decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, which established the test for bad faith in the event of a Respondent's "passive holding" of a domain name. In that case, the panel found bad faith as the result of the following circumstances:

(i) the Complainant's trademark has a strong reputation and is widely known, as evidenced by its substantial use…,

(ii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name,

(iii) the Respondent has taken active steps to conceal its true identity, by operating under a name that is not a registered business name,

(iv) the Respondent has actively provided, and failed to correct, false contact details, in breach of its registration agreement, and

(v) taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the 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.

Here, this Panel similarly finds the presence of four of these circumstances, namely, factors (i), (ii), (iii) and (v) listed above. Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDITAGRICOLE-LOGIN.COM**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2016-10-09