Decision for dispute CAC-UDRP-101691

Case number	CAC-UDRP-101691
Time of filing	2017-09-20 09:35:13
Domain names	ca-centre-miseajour-g3-enligne-credit-agricole.net

Case administrator

Name	Iveta Špiclová (Case admin)

Complainant

Organization	CREDIT AGRICOLE SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Alkhandrio Fernadez

OTHER LEGAL PROCEEDINGS

To the best of the Panel's knowledge, no other legal proceedings have been commenced or terminated in connection with or relating to the domain name that is the subject of the Complaint.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademark registrations for the CREDIT AGRICOLE sign, including the international trademark registration CA CREDIT AGRICOLE No. 441714, dated October 25, 1978 and duly renewed, covering goods and services in classes 16, 35, 36 and 42.

FACTUAL BACKGROUND

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

The Complainant Crédit Agricole SA is the leader in retail banking in France and one of the largest banks in Europe. First financing the French economy and major European player, the Complainant assists its clients' projects in France and around the world in all areas of banking and trades associated with it such as insurance management asset leasing and factoring, consumer credit, corporate and investment.

The disputed domain name was registered by the Respondent on September 12, 2017, and is inactive.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT'S' CONTENTIONS:

I/ First of all, the Complainant contends that the disputed domain name is confusingly similar to their CA CREDIT AGRICOLE trademark as it reproduces said trademark along with the generic terms "centre", "mise à jour", "G3" and "en ligne".

II/ The Complainant then puts forth that the Respondent has no right or legitimate interest in the disputed domain name as he is not a licensee of the Complainant nor received any consent to use the CA CREDIT AGRICOLE trademark in the disputed domain name. The Respondent does not use the disputed domain name in connection with a bona fide offering of goods and services as the disputed domain name is inactive.

III/ Finally, the Complainant argues that the disputed domain name was registered and is being used in bad faith as, given the fame of the CA CREDIT AGRICOLE trademark, the Respondent necessarily had the Complainant’s trademark in mind when registering the disputed domain name. Besides, the Respondent is passively holding the disputed domain name.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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/ The Panel, which finds that the disputed domain name incorporates the Complainant's CA CREDIT AGRICOLE trademark in its entirety, concurs with the opinion of prior UDRP panels which have held that the fact that a domain name wholly incorporates a complainant’s registered trademark may be sufficient to establish confusing similarity for the purposes of the Policy (See e.g. Oki Data Americas Inc. v. ASD Inc., WIPO Case D2001-0903). Besides, the mere addition of descriptive or non-distinctive elements to a trademark in which the Complainant has rights is insufficient to avoid a finding of confusing similarity. In the present case, the Complainant's trademark is associated with the generic and/or non-distinctive terms "centre", "mise à jour", "G3" and "en ligne" which do not prevent any likelihood of confusion. Finally, the Panel agrees with the well-established view under the UDRP that generic Top-Level Domain (“gTLD") extensions may typically be considered irrelevant in assessing confusing similarity between a trademark and a disputed domain name (See e.g. Boehringer Ingelheim International GMBH v. Ralf Zinc, WIPO Case No. D2016-1236) and considers the gTLD extension “.net” to be irrelevant in the present case.

II/ Given the absence of reply to the Complaint, and based on the evidence submitted in the case file, for example, that the Complainant had previously registered CA CREDIT AGRICOLE trademarks, the Panel deems that the Complainant has proved

their earlier and lawful rights in the CA CREDIT AGRICOLE sign and accepts the Complainant's claim that the Respondent was never granted any right to use the CA CREDIT AGRICOLE trademark in relation to the disputed domain. The Panel consequently deems that the Complainant has established a prima facie case that the Respondent does not have rights in the disputed domain name. Besides, the Panel infers from the inactivity of the disputed domain name that the Respondent is not using the disputed domain name with a bona fide offering of goods and services.

III/ Firstly, as the Complainant's CA CREDIT AGRICOLE trademark is well-known and largely used in France and around the world, the Panel finds very unlikely that the Respondent was unaware of the Complainant's trademark at the time of registration of the disputed domain name. As a result, the Panel finds that the Respondent could not have unintentionally incorporated the Complainant's trademark in the disputed domain name and therefore, has registered the domain name in bad faith in order to capitalize on the reputation of the Complainant's trademark (See e.g. Crédit Agricole SA v. EMPARK, CAC case No. 100688). Finally, as the disputed domain name reproduces the Complainant's trademark and has not been used in connection with an active website, the Panel concludes that the Respondent has been passively holding the disputed domain name and, therefore, has been using it in bad faith (See Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D-2000-0003).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CA-CENTRE-MISEAJOUR-G3-ENLIGNE-CREDIT-AGRICOLE.NET**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2017-11-03

Publish the Decision