

Decision for dispute CAC-UDRP-105141

Case number	CAC-UDRP-105141
Time of filing	2023-01-20 09:15:00
Domain names	cardif-epargne.com, epargnegestion-cardif.com, epargnegestioncardif.com, gestioncrdf.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	GIE BNP Paribas Cardif
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondents

Organization	cardif-epargne
Organization	epargnegestion-cardif
Organization	epargnegestioncardif
Organization	gestioncrdf

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant submitted evidence that it is the owner of the EU word trademark "CARDIF", registration no. 004105185, filed on 3 November 2004, registered on 10 February 2006, valid in the EU for a list of goods and services in classes 16, 35, 36 and 42 (hereinafter the "Trademark").

FACTUAL BACKGROUND

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

The Complainant claims to be an international insurance company with a presence in 33 countries in Europe, Asia and Latin America. The Complainant explains that the term "CARDIF" is a contraction of "Compagnie d'Assurance et d'Investissement".

The Complainant provided evidence that it is the owner of the Trademark and of several domain names, including <cardif.com> since 27 January 1998 and <bnpparibascardif.com> since 12 April 2011.

The disputed domain name <cardif-espargne.com> was registered on 16 December 2022; the disputed domain name <EspargneGestion-cardif.com> was registered on 24 December 2022; the disputed domain name <EspargneGestioncardif.com> was registered on 28 December 2022; and the disputed domain name <GestionCrdf.com> was registered on 4 January 2023.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

Multiple respondents were consolidated into a single proceeding, because from evidence it appears that these respondents are in fact the same person/organisation or at least that the domain names are controlled by the same person/organisation. The Panel refers, inter alia, to the following factors:

- there are similarities in the identities of the registrants of the disputed domain names, more in particular:
 - use of the terms “Perrier” and “Pascal” in three of the disputed domain names: “perrier Perrier” (in the first disputed domain name <cardif-epargne.com>); “perrier Pascal” (in the second disputed domain name <EspargneGestion-cardif.com>); and “pascal perrier CRDF” (in the fourth disputed domain name <GestionCrdf.com>);
 - use of the terms “sylvain froissard” in the third disputed domain name <EspargneGestioncardif.com>, which corresponds to the contact email address “froissard.crdf@gmail.com” used in the fourth disputed domain name <GestionCrdf.com>;
- there are certain similarities in the contact details of the registrants of the disputed domain names, more in particular:
 - same contact phone number for the third disputed domain name <EspargneGestioncardif.com> and for the fourth disputed domain name <GestionCrdf.com>;
 - same contact email address (i.e., “sylvain.froissard.crdf@gmail.com”) for the third disputed domain name <EspargneGestioncardif.com> and for the fourth disputed domain name <GestionCrdf.com>;
 - mention of the term “crdf” in the contact email address (i.e., “crdf@gmail.com”) for the second disputed domain name <EspargneGestion-cardif.com> and for the third disputed domain name <EspargneGestioncardif.com> (see previous bullet point), which thus link to the fourth disputed domain name <GestionCrdf.com>;
 - same Paris postal code “75008” for 3 of the disputed domain names (only the second domain name <EspargneGestion-cardif.com> has a “75016” Paris postal code);
- there are clear similarities in the naming pattern of all four disputed domain names (combined use of the words “cardif”/ “crdf” and/or “epargne” and/or “gestion”);
- use of the same registrar for all four disputed domain names;
- all four disputed domain names were used for phishing purposes. Similar phishing emails were sent out by email addresses “pascal.perrier@cardif-epargne.com” (i.e., first disputed domain name and name linked to second and fourth disputed domain name); “sylvain.froissard@epargnegestion-cardif.com” (i.e., second disputed domain name and name linked to the third disputed domain name); “pascal.perrier@epargnegestion-cardif.com” (second disputed domain name);

"sylvain.froissard@epargnegestioncardif.com" (i.e., third disputed domain name); and "pascal.perrier@gestioncrdf.com" (i.e., fourth disputed domain name and name linked to second disputed domain name).

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

1. Confusing similarity

- As concerns the disputed domain names <cardif-epargne.com>, <epargnegestion-cardif.com> and <epargnegestioncardif.com>:
:

The disputed domain names <cardif-epargne.com>, <epargnegestion-cardif.com> and <epargnegestioncardif.com> consist of the Complainant's Trademark "CARDIF" with the addition of the French words "GESTION" and/or "EPARGNE".

According to the Complainant, the addition of the word "GESTION" (French for "management") and/or the word "EPARGNE" (French for "saving") is not sufficient to avoid a likelihood of confusion with the Complainant's registered Trademark. The Complainant states it is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Furthermore, the Complainant argues that the gTLD ".com" does not change the overall impression of the designation as being connected to the Trademark.

The Panel notes that the disputed domain names <cardif-epargne.com>, <epargnegestion-cardif.com> and <epargnegestioncardif.com> incorporate the entirety of the Complainant's "CARDIF" Trademark, with the addition of the French words "GESTION" and/or "EPARGNE".

The Panel remarks that Section 1.7 of WIPO Overview 3.0, clearly states that, "in cases where a domain name contains the whole of a trademark, or where at least one dominant feature of the relevant trademark is recognisable in the domain name, the domain name shall normally be considered confusingly similar to that trademark for the purposes of UDRP status".

The Panel is of the opinion that the addition of the French words "GESTION" and/or "EPARGNE" does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy, since the words "GESTION" and "EPARGNE" are purely descriptive.

This is supported by section 1.8 of WIPO Overview 3.0, which clearly states: "Where the relevant mark is recognisable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) would not preclude a finding of confusing similarity under the first element".

It is well-established that the gTLD ".com" may be disregarded when it comes to considering whether a domain name is confusingly similar to a trademark in which the Complainant has rights. Moreover, section 1.11.1 of WIPO Overview 3.0 clearly states: "The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

- As concerns the disputed domain name <gestioncrdf.com>:

The disputed domain name <gestioncrdf.com> consists of the consonants of the Complainant's Trademark "CARDIF" (being "CRDF") with the addition of the word "GESTION".

According to the Complainant, "CRDF" is the only element of the disputed domain name that is not a dictionary word, thus it is the main and most obviously source identification element of the disputed domain name. In addition, the Complainant states that the word "GESTION" (French for "management") refers to the Complainant's activities. The Complainant concludes that the addition of the generic term "GESTION" to the abbreviation does not in the circumstances distinguish the resulting domain name from the Complainant's trademark, nor avoid confusingly similarity between Complainant's trademark and the disputed domain name.

The Panel notes that the disputed domain name consists of the consonants of the "CARDIF" Trademark and the French word "GESTION".

The Panel believes that the Trademark "CARDIF" is recognizable within the disputed domain name. All consonants of the Trademark are used, and only the two vowels are omitted.

The Panel is of the opinion that the broader case context supports a finding of confusing similarity. The Panel refers to the fact that the Respondent registered three other domain names (<cardif-epargne.com>, <epargnegestion-cardif.com> and <epargnegestioncardif.com>) that also target the Complainant's Trademark "CARDIF". Two of these other domain names also contain the French word "GESTION". The Panel believes that there is a pattern of conduct that affirms the confusing similarity between the disputed domain name <gestioncrdf.com> and the Complainant's Trademark.

The Panel is of the opinion that the addition of the French word "GESTION" does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy, since the word "GESTION" is purely descriptive and refers to the business of the Complainant.

This is supported by section 1.8 of WIPO Overview 3.0, which clearly states: "Where the relevant mark is recognisable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) would not preclude a finding of confusing similarity under the first element".

For these reasons, the Panel concludes that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, while the overall burden of proof rests with the Complainant, it is commonly accepted that this should not result in an often-impossible task of proving a negative. Therefore, numerous previous Panels have found 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 of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such appropriate allegations or evidence, the Complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. If the Respondent does come forward with some allegations or evidence of relevant rights or legitimate interests, the panel then must weigh all the evidence, with the burden of proof always remaining on the Complainant.

The Complainant argues that:

- The Respondent has no rights or legitimate interests in respect of the domain names and is not related in any way to the Complainant's business.
- The Respondent is not affiliated with nor authorized to use the Trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent.
- The disputed domain names are not actively used. The disputed domain names are solely used in a phishing scheme. The Respondent has used the disputed domain names to pass itself off as one of the Complainant's employees, to phish for personal information and receive undue payments. This is not a bona fide offering of goods and services nor a legitimate non-commercial or fair use.

The Respondent did not file an administratively compliant (or any) response. The Respondent did not provide evidence that it has rights or legitimate interests in the disputed domain names (the Respondent could, inter alia, have provided evidence of the factors mentioned in paragraph 4(c) of the Policy, but failed to do so).

The Panel finds that the Respondent does not appear to have any rights or legitimate interests associated with the Trademark from the following facts:

- There is no evidence that the Respondent is or has been commonly known, by the disputed domain names or by the term "CARDIF" or by any variations thereof (such as "CRDF");
- The Complainant's Trademark was registered and has been used well before the registration date of the disputed domain names. The disputed domain names were registered between 16 December 2022 and 4 January 2023, whereas the Trademark of the Complainant was registered on 10 February 2006;
- There is no evidence to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers;
- The Respondent did not show to have any trademark rights or other rights regarding the term "CARDIF" or any variations thereof (such as "CRDF").
- The Respondent does not seem to have any consent or authorisation to use the Trademark or variations thereof (such as "CRDF") and does not seem to be related in any way to the Complainant.

In sum, on the balance of probabilities, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain names.

3. Bad faith

The Complainant argues that the disputed domain names are confusingly similar to its registered Trademark "CARDIF". The Complainant asserts that this is no coincidence, since all the Google results of the search terms "CARDIF GESTION EPARGNE" refer to the Complainant. The Complainant states that because of the distinctiveness and reputation of the Trademark, it is inconceivable that the Respondent could have registered the disputed domain names without actual knowledge of Complainant's rights in the Trademark, which, according to the Complainant, evidences bad faith.

The Complainant claims that the Respondent has used the domain name <cardif-gestion.com> in a phishing scheme. The Panel notes on the one hand that this domain name <cardif-gestion.com> was not included in the Complaint, but also that the evidence submitted by the Complainant does indeed prove that the four disputed domain names were used in a phishing scheme. The Respondent attempted to pass as one of the Complainant's employees. The Complainant argues that it is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith.

The Panel weighs these arguments and facts as follows:

Firstly, as mentioned already, three of the four disputed domain names (i.e., <cardif-epargne.com>, <epargnegestion-cardif.com> and <epargnegestioncardif.com>) reproduce the Complainant's Trademark "CARDIF" entirely, with the addition of the generic words "EPARGNE" and/or "GESTION". The fourth disputed domain name (i.e., <gestioncrdf.com>) reproduces all consonants of the Complainant's Trademark "CARDIF", again with the addition of the generic word "GESTION".

Secondly, the Complainant's Trademark predates the registration of the disputed domain names.

Thirdly, the Respondent does not actively use the disputed domain names for a genuine website. The disputed domain names lead to parking pages.

Fourthly, The Respondent sent out emails pretending to be an employee of the Complainant. The Respondent copied, inter alia, the logo, colours, lay-out, etc. of the Complainant's website and Trademark.

Evidence submitted by the Complainant proves that these phishing emails were sent from the following email addresses:

- perrier@cardif-epargne.com (email address linked to the first disputed domain name <cardif-epargne.com>);
- froissard@epargnegestion-cardif.com and pascal.perrier@epargnegestion-cardif.com (email addresses linked to the second disputed domain name <epargnegestion-cardif.com>);
- froissard@epargnegestioncardif.com (email address linked to the third disputed domain name <epargnegestioncardif.com>);
- perrier@gestioncrdf.com (email address linked to the fourth disputed domain name <gestioncrdf.com>).

In other words, all four disputed domain names were used for sending out phishing emails (which amounts to a clear pattern of conduct).

The fact that emails were sent from email addresses linked to the disputed domain names including use of the name, logo, colours, lay-out, etc. of the Complainant and its Trademark, confirms that the Respondent had actual knowledge of the Complainant and acted in bad faith when registering and using the disputed domain names.

The Panel realises that "Cardiff" is the name of the capital of Wales, but this name is written in a different way than the "CARDIF" Trademark of the Complainant (i.e., with a double "ff" in the end). Also, the combination of the term "CARDIF" and the French words "GESTION" and/or "EPARGNE" seem to confirm that the Respondent was aware of the Complainant and its registered Trademark. The Panel notes that both the Complainant and the Respondent are based in France.

It is inconceivable that the Respondent would have come up with a domain name consisting of the term "CARDIF" (or its consonants) in combination with the words "EPARGNE" and/or "GESTION" without having prior knowledge of the Complainant and its Trademark and activities. On the balance of probabilities, it is evident that the Respondent had knowledge of the existence of the Complainant and its activities, and of the existence of the Complainant's Trademark and the scope of the Trademark at the time of registration and use of the disputed domain names.

The Respondent did not contest any of the Complainant's arguments and did not provide any explanation concerning its choice for registering and/or using domain names that include the Complainant's registered Trademark (or a variation thereof) in combination with the generic words "EPARGNE" and/or "GESTION".

Given the above, the Panel finds that the disputed domain names are not being used for any bona fide offering of goods or services. The disputed domain names are used in a well-thought-out phishing scheme. The Respondent attempts to obtain payments and personal data from consumers by contacting them. It is more than clear from the evidence submitted that the Respondent seeks to impersonate the Complainant ("passing off"). In the emails that were sent out, the Respondent even mentions the positions/titles of the so-called employees at BNP Paribas Cardif France.

The Panel is convinced that the Respondent had the Trademark of the Complainant in mind when registering and subsequently using the disputed domain names. The Panel concludes that the disputed domain names are being used for the purpose of misleading Internet users. There is no evidence whatsoever of any bona fide offering of goods.

For all the reasons set out above, the Panel concludes that the disputed domain names were registered and are 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. **cardif-epargne.com**: Transferred
2. **epargnegestion-cardif.com**: Transferred
3. **epargnegestioncardif.com**: Transferred
4. **gestioncrdf.com**: Transferred

PANELLISTS

Name	Bart Van Besien
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DATE OF PANEL DECISION **2023-02-24**

Publish the Decision
