

Decision for dispute CAC-UDRP-105841

Case number CAC-UDRP-105841

Time of filing 2023-10-03 09:47:10

Domain names cdc-habitation.com

Case administrator

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

Complainant

Organization CAISSE DES DEPOTS ET CONSIGNATIONS

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Lesaulnier Francis

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 is a registered owner of following trademarks containing a word element "CDC" or "CDC HABITAT":

- CDC (word), French national trademark, filing (priority) date 29 November 2005, trademark no. 3394569, registered for goods in the international classes 9, 14, 16, 18, 25, 28, 35, 36, 37, 38, 41, 42, and 43;
- CDC HABITAT (word), French national trademark, filing (priority) date 29 January 2018, trademark no. 4423780, registered for goods in the international classes 9, 16, 35, 36, 37, 38, 39, 41, 42, and 45;

besides other national or international (WIPO) trademarks consisting of the "CDC" or "CDC HABITAT" denominations.

(collectively referred to as "**Complainant's Trademarks**").

In addition, the Complainant also owns and communicates on the Internet through various domain names consisting of the "CDC" or "CDC HABITAT" denominations.

FACTUAL BACKGROUND

The **Complainant** (Caisse Des Depots et Consignations), also known as "Caisse des Dépôts", was founded in 1816 and it and its

subsidiaries represent a major public financial institution with a strong identity. The Group is dedicated to serving public interest and its primary aim is to develop France.

The **disputed domain name** was registered on 13 February 2023 and is held by the Respondent.

The **domain name website** (i.e. website available under internet address containing the disputed domain name) resolves to the Complainant's official website (www.cdc-habitat.fr).

An MX record for the disputed domain name specifies the mail server responsible for accepting e-mail messages on behalf of a disputed domain name. This indicates that the disputed domain name is capable of being used for e-mail purposes.

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

PARTIES CONTENTIONS

COMPLAINANT:

A) CONFUSING SIMILARITY

The Complainant states that:

1. The disputed domain name is confusingly similar to Complainant's Trademarks as they both incorporate the "CDC" and "CDC HABITAT" word elements of the Complainant's trademarks in its entirety;
2. The addition of the suffix "ATION" (being a generic suffix in the French language) is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's trademarks, as it does not prevent the likelihood of confusion between the disputed domain name and the Complainant and his business.

Thus, according to the Complainant the confusing similarity between Complainant's trademarks and the disputed domain name is clearly established.

The Complainant refers to previous domain names decisions in this regard.

B) NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

1. The Respondent has not been commonly known by the disputed domain name;
2. The Complainant has not authorized, permitted or licensed the Respondent to use Complainants' trademarks in any manner. The Respondent has no connection or affiliation with any of the Complainants whatsoever. On this record, Respondent has not been commonly known by the disputed domain name;
3. The Complainant has not authorized, permitted or licensed the Respondent to use Complainants' trademarks in any manner. The Respondent has no connection or affiliation with the Complainant or its subsidiaries whatsoever. On this record, Respondent has not been commonly known by the disputed domain name.

Furthermore, the disputed domain name redirects to the Complainant's official website. Consequently, the Respondent is not making a bona fide offering of (his own) goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

The Complainant refers to previous domain names decisions in this regard.

C) BAD FAITH REGISTRATION AND USE

The Complainant states that:

1. Seniority of the Complainant's Trademarks predates the registration of the disputed domain name.
2. Furthermore, the Complainant's Trademarks have received widespread recognition at least in France. Therefore, the Respondent, a French citizen, must have been aware of such trademarks and their reputation. This clearly indicates bad faith registration of disputed domain name by the Respondent.

3. The disputed domain name redirects to the Complainant's official website. This indicates that Respondent has knowledge of the Complainant's rights to the CDC denomination, which is a hallmark of bad faith.
4. MX servers are configured for the disputed domain name, which suggests that the disputed domain name may be actively used for e-mail purposes. However, it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.

The Complainant refers to previous domain names decisions in this regard.

RESPONDENT:

The Respondent has not provided any response to the Complaint.

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

RIGHTS

Since the disputed 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 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 disputed 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 disputed domain name. An addition of common, dictionary, generic, 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 in question.

Applying the principles described above, the Panel contends that incorporation of the "CDC" and "CDC HABITAT" elements of Complainant's trademarks (which standalone enjoys high level of distinctiveness) into the disputed domain name constitutes confusing similarity between Complainant's trademark and the disputed domain name.

The addition of the suffix "ION" (a generic suffix) is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's trademarks, as it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, Complainant's trademarks and its business.

For sake of completeness, the Panel asserts that the top-level suffix in the disputed domain name (i.e. the ".com") must be disregarded under the identity and confusing similarity tests 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 Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

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 Policy).

Furthermore, the disputed domain name redirects to the Complainant's official website. Such a use is indeed neither a bona fide offering of goods or services by means of the domain name under par. 4(c)(i) of the Policy nor a legitimate non-commercial or fair use of it under par. 4(c)(iii) of the Policy. Using disputed domain name over which Complainant has no control, even if the domain name redirects to Complainant's actual site, is not consistent with such requirements.

BAD FAITH

The Panel finds it grounded that the Respondent registered and used the disputed domain name in bad faith.

Given the distinctiveness of the Complainant's trademarks and reputation of its business, it is reasonable to infer that the Respondent, who is a French citizen, has registered the domain name with full knowledge of the Complainant's trademarks (which predates registration date of the dispute domain name). In addition, the disputed domain name redirects to the Complainant's official website. This indicates that Respondent has knowledge of the Complainant's rights to the CDC and CDC HABITAT denominations, which is a hallmark of bad faith. These elements indicate that the disputed domain name was registered in bad faith.

It is more likely than not that the Respondent has also used the disputed domain name to capitalize on the positive reputation that the Complainant has established through its trademarks. The primary intention appears to be to cause confusion with the Complainant's trademarks and domain names.

Lastly, MX servers are set up for the disputed domain name, indicating that it might be in active use for e-mail. Nevertheless, it seems highly unlikely that the Respondent will be able to use the disputed domain name in a legitimate manner for e-mail addresses.

Thus, the Panel has taken a view that, on the balance of probabilities, 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).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **cdc-habitation.com**: Transferred

PANELLISTS

Name	Jiří Čermák
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DATE OF PANEL DECISION **2023-11-07**

Publish the Decision
