

Decision for dispute CAC-UDRP-106333

Case number CAC-UDRP-106333

Time of filing 2024-03-08 09:36:11

Domain names arkea-gestion.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization CREDIT MUTUEL ARKEA

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name pierre loisel

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 owner of French Registered Trademark Number 96636222 for the word mark ARKEA, filed on and registered with effect from July 26, 1996 in Classes 35, 36, 42, and 45.

FACTUAL BACKGROUND

With roots tracing back to 1911, the Complainant is a cooperative bank insurance group in France consisting of the Crédit Mutuel de Bretagne and Crédit Mutuel du Sud-Ouest federations and their member local banks, as well as around forty specialised subsidiaries. It is owned by its members, who are both shareholders and customers. It covers all areas of banking and insurance, together with a growing position in real estate and connected services.

In addition to the Complainant's ARKEA registered trademark, the Complainant owns a domain name portfolio containing the domain name <arkea.com>, registered since July 26, 2002.

The disputed domain name was registered on December 18, 2023 and resolves to a parking page containing commercial links with labels such as "Comment Investir son Argent" ("How to Invest your Money"), "Financement" (Funding), and "Conseil en Gestion Patrimoine" ("Asset Management Consulting").

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's ARKEA trademark as it includes this in its entirety, differing only by the addition of the term "gestion". A domain name that wholly incorporates a complainant's registered trademark may be sufficient to establish confusing similarity for the purposes of the Policy.

The addition of the generic Top-Level Domain ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark or prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain name. Previous cases under the Policy have confirmed the Complainant's rights.

The Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent is not identified in the Whois database as the disputed domain name. Previous panels have held that a respondent is not commonly known by a domain name if the Whois information is not similar thereto. The Respondent is not related to the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. No license nor authorization has been granted to the Respondent to make any use of the Complainant's ARKEA trademark or to apply for registration of the disputed domain name.

The disputed domain name resolves to a parking page with commercial links. Previous panels have found that this is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name several years after the registration of the Complainant's trademark, which has established a strong reputation through use. Previous panels under the Policy have confirmed the Complainant's rights in the term ARKEA and noted that such term appears to have no common meaning and is highly distinctive. Given such distinctiveness, it is inconceivable that the Respondent, who is French, could have registered the disputed domain name without actual knowledge of the Complainant's rights in its trademark.

The disputed domain name resolves to a parking page with commercial links. The Respondent has attempted to attract Internet users for commercial gain to its own website because of the Complainant's trademark, which is evidence of bad faith.

Respondent:

No administratively compliant Response has been filed.

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

The Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its ARKEA trademark by virtue of French Registered Trademark Number 96636222. The Second-Level Domain of the disputed domain name contains the said trademark in its entirety, suffixed with a hyphen and the word "gestion", each of which has no distinguishing significance. The said mark is therefore fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's ARKEA trademark.

With regard to the second element of the Policy, the Complainant asserts that the Respondent is not commonly known by the disputed domain name (according to a review of the corresponding Whois information), that the Respondent is not affiliated with, licensed nor authorized by the Complainant in any manner, that the Complainant carries out no activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant's said trademark or to apply for registration of the disputed domain name. The Complainant submits, with corresponding evidence, that the disputed domain name is being used for a parking page with commercial advertising links. Such links appear to the Panel to be concerned with the Complainant's line of business.

The Panel finds that the Complainant's assertions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")). The disputed domain name reflects the Complainant's trademark, found to be distinctive in a previous case under the Policy, and merely couples this by way of a hyphen to the French dictionary word "gestion", which is a word commonly used in connection with commercial activities, translating into English as "management". The composition of the disputed domain name effectively impersonates or suggests endorsement by the Complainant and, as such, cannot constitute fair use. Furthermore, the website associated with the disputed domain name points to a parking page containing advertising links which appear to the Panel to be taking advantage of the notoriety, reputation and goodwill of the Complainant's mark unfairly to maximize the number of clicks or impressions, such that this cannot give rise to rights or legitimate interests in the disputed domain name. The fact that the page concerned may be provided by a third party would not alter this view as the Respondent is ultimately responsible for the content on the website associated with the disputed domain name.

The Respondent has not replied to the Complainant's allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant's trademark registration is long-established and pre-dates the registration of the disputed domain name by more than 25 years. Previous panels under the Policy have accepted that the Complainant's mark is highly distinctive, see for example, Credit Mutuel Arkea v. Sun Xiao Cheng, WIPO Case No. D2018-1770. Furthermore, the Respondent's address and telephone number suggest that it is based in France, where the Complainant's business is also headquartered and where the Complainant's rights are registered. It is therefore entirely reasonable, in the absence of any countervailing submissions or evidence, to infer that the disputed domain name was registered by the Respondent with an awareness of the Complainant and its rights, and with an intent to target these.

The website associated with the disputed domain name features commercial advertising links which seem to be keyed to the Complainant's line of business. The Panel is satisfied, on the balance of probabilities, that the disputed domain name takes unfair advantage of the notoriety of the Complainant's trademark to maximize the traffic to the Respondent's website in order to benefit from the corresponding advertising impressions. As noted above, the use of such advertising links is indicative of registration and use in bad faith even if the Respondent has not directly published the links concerned, as the registrant of a domain name is generally deemed responsible for the content on any associated website. In terms of paragraph 4(b)(iv) of the Policy, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of its website.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith within the meaning of the Policy. The Respondent has not filed a Response in this case and therefore has not sought to address the Complainant's allegations of bad faith registration and use in any way. The Respondent has not offered any explanation that might have suggested that its actions regarding the disputed domain name were in good faith, and the Panel has been unable to identify any conceivable good faith explanation which the Respondent might have put forward in this case.

In all of these circumstances, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arkea-gestion.com**: Transferred

PANELLISTS

Name	Andrew Lothian
------	----------------

DATE OF PANEL DECISION	2024-04-03
------------------------	------------

Publish the Decision
