Decision for dispute CAC-UDRP-106345

Case number	CAC-UDRP-106345
Time of filing	2024-03-13 09:59:33
Domain names	arkea-immobilier.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	CREDIT MUTUEL ARKEA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Eman BUTT

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

French Trade Mark Registration No. 96636222 ARKEA registered for various services in classes 35, 36, 42 and 45 effective from 26 July 1996.

FACTUAL BACKGROUND

The Complainant trade is a cooperative and mutual back insurance group located in France. It was originally created in 1911 in Brittany, France. In recent times it trades under the name CREDIT MUTUEL ARKEA. It provided evidence of numerous branches located throughout France that are marketed under signage that prominently displays the trademark ARKEA.

The Complainant is the owner of numerous trademarks containing or consisting of the ARKEA, including the French registration referred to above. It is also the owner of several domain names containing the trademark ARKEA, including <arkea.com> which has been registered since 26 July 2002.

The disputed domain name was registered on 21 February 2024 and resolves to a parking page. Further, MX servers have been configured for the disputed domain name. The registrant details provided by the Respondent claim that the Respondent has an address in France.

The word "immobilier", which appears in the disputed domain name, translates from French to English as "REAL ESTATE".

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has
rights; and
2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above, the Complainant has a French trademark registration for the word ARKEA that predates the registration date of the disputed domain name by over two decades.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also WIPO Case Nos.
D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark “ARKEA”.

The next question is whether the disputed domain name is confusingly similar to the ARKEA trade mark.

The Panel disregards the gTLD suffix ".com" for the purpose of this comparison. It is of no brand significance and it is likely to be totally ignored by web users. Further, French-speaking web users are also likely to place no brand significance of the "immobilier" element in the disputed domain name as this word is entirely descriptive of finance related services in that it simply translates as

"REAL ESTATE". Such web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the ARKEA element.

The disputed domain name is therefore confusingly similar to the ARKEA trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name is "Eman Butt". This name bears no resemblance to "ARKEA". Further, redirecting web users to a parking page does not indicate any right or legitimate interest in the disputed domain name on the part of the Respondent.

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

BAD FAITH

As can be observed from the above facts, ARKEA is a well-known trade mark in France. It is entirely unforeseeable that a reasonable person residing in France could register the strikingly similar disputed domain name without knowledge of the Complainant's rights.

The Panel is further concerned by the configuration of MX servers, showing an intention to use the disputed domain name for the purposes of email. The Panel finds that there is no explanation for the Respondent's conduct that is consistent with its acting in good faith. Given the Respondent's knowledge of the Complainant's rights at the time of registering the disputed domain name, and the subsequent configuration of MX servers, the purpose of registering and using this domain name was to opportunistically profit from confusing similarity. Such opportunism could occur, for example, through using the dispute domain name for phishing emails in circumstances where the recipient of such emails could be misled by the fact the disputed domain name is so strikingly similar to "ARKEA".

Therefore, in consideration of all the circumstances 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-immobilier.com**: Transferred

PANELLISTS

Name	**Andrew Sykes**

DATE OF PANEL DECISION 2024-04-17

Publish the Decision