Decision for dispute CAC-UDRP-106624

Case number	CAC-UDRP-106624
Time of filing	2024-06-18 13:28:58
Domain names	eko-pro.com

Case administrator

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

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	one time

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 owns the French trademark EKO BY CA, registration number 4353457, registered 4 October 2017 in classes 9 and 36.

FACTUAL BACKGROUND

The Complainant, Credit Agricole S.A., is a leading retail bank in France and one of the largest banks in Europe. It is active in all areas of banking and trades associated with it: insurance management asset leasing and factoring, consumer credit, corporate and investment.

The Complainant offers banking services for entrepreneurs under the name “EKO PRO” and owns the French trademark EKO BY CA.

The Respondent, one time, registered the disputed domain name <eko-pro.com> on 16 June 2024 using a privacy service. The disputed domain name resolves to a parking page with commercial links and is offered for sale for $850.

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 requires the Complainant to prove each of the following three elements:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in the disputed domain name; and

(iii) the disputed domain name has been registered and used in bad faith.

The Panel must decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable (paragraph 15(a) of the Rules).

If the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based on the complaint (paragraph 5(e) of the Rules). However, the Respondent's failure to file a response will not automatically result in the Complainant succeeding. The Complainant must prove each of the three elements. The applicable standard of proof is the balance of probablilities.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant states that the disputed domain name is confusingly similar to its trademark, EKO BY CA.

The Complainant relies on a trademark that has word and device elements. It was registered in France in 2017. The jurisdiction where the trademark is registered is not considered relevant for the Panel's assessment under the first element. See paragraph 1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3).

The dominant part of the Complainant's trademark is the term "EKO". Where the dominant feature of the relevant mark is recognisable in the dispute domain name, the disputed domain name will normally be considered confusingly similar to that mark for the purposes of UDRP. See paragraph 1.7 of the WIPO Jurisprudential Overview 3.

The disputed domain name is comprised of the term "EKO" a hyphen and the word "PRO", plus the top-level domain ".com". The evidence submitted with the Complaint shows that the Complainant offers banking services for entrepreneurs under the name "EKO

PRO". Combining the distinctive part of the Complainant's trademark, "EKO", with the generic word "PRO", a word that is closely related to the Complainant's business activities, does not avoid a finding that the disputed domain name is confusingly similar to the Complainant's trademark. See Hoffmann-La Roche Inc. v. Wei-Chun Hsia, WIPO Case No.D2008-0923.

It is generally accepted that the addition of the top-level suffix, ".com" is a standard registration requirement and can be disregarded when assessing whether the disputed domain names are confusingly similar to the Complainant's trade mark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that the requirements of paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTEREST

The Complainant asserts that the Respondent has no rights or legitimate interest in the disputed domain name. The Complainant has submitted evidence to show that the Respondent is not identified in the Whois database as the disputed domain name and is not commonly known by that name.

The Panel accepts that the Respondent is not related to, nor has any business with the Complainant, and is not licensed to use the Complainant's trademark, nor authorised to apply for registration of the disputed domain name. The evidence submitted with the Complaint shows that the disputed domain name resolves to a parking page with commercial links, and is being offered for sale for $850.

The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The burden of proof now shifts to the Respondent to show it has relevant rights (see WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd).

The Respondent may demonstrate its rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii) of the Policy as follows:

(i) before any notice of the dispute, the Respondent uses or has demonstrable preparations to use, the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services; or

(ii) the Respondent has been commonly known by the domain name; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has not filed a Response, nor submitted any evidence to show it has relevant rights or a legitimate interest in the disputed domain name. The evidence indicates that the disputed domain name is not being used in connection with a bona fide offering of goods or services, nor for a legitimate noncommercial or fair use, nor is the Respondent commonly known by that name.

Considering these factors and the evidence submitted with the Complaint, the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

C. REGISTERED AND USED IN BAD FAITH

The Complainant asserts that the disputed domain name was registered and used in bad faith. It states that the disputed domain name <eko-pro.com> is confusingly similar to its trademark EKO by CA. It further asserts that the addition of the term "PRO" to the term "EKO" cannot be coincidental as it refers to the Complainant's banking services for entrepreneurs under the name "EKO PRO".

The Complainant's trademark is registered in France. The Respondent's address is in Germany. Evidence submitted with the Complaint shows that the website to which the disputed domain name resolves uses French words and has links to French websites, such as Engie Climatisation and Aide Remplacement Chaudière Gaz. While the word "eco" has a generic meaning referring to the environment and is short for ecology, the word EKO does not have a generic meaning.

The combination of the terms "EKO" and "PRO" are used by the Complainant for its banking services for entrepreneurs, EKO PRO. The disputed domain name includes the dominant term "EKO" in the Complainant's trademark. The Complainant has submitted evidence to show that disputed domain name resolves to a parking page with commercial links.

The Respondent has not filed a Response nor disputed any of the Complainant's assertions nor given any reason for registering the disputed domain name <eko-pro.com>. The most likely reason the Respondent choose the specific the combination of the words "EKO" and "PRO" for the disputed domain name and linked French websites was because it knew of the Complainant and intended to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant and its mark. (See paragraph 4(b)(iv) of the Policy: Evidence of registration and use in bad faith).

The Panel notes that the Respondent has attempted to hide its identity and has used a privacy service to register the disputed domain name. The Respondent has offered the disputed domain for sale for what appears to be in excess of its out-of-pocket costs directly related to the disputed domain name, which evidences bad faith registration and use under paragraph 4(b)(iv) of the Policy.

Considering the above factors and the evidence submitted, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eko-pro.com**: Transferred

PANELLISTS

Name	**Veronica Bailey**

DATE OF PANEL DECISION 2024-07-22

Publish the Decision